

## **Exhibit “B”**

### **Deposition of Sheriff John Mark Tirey**

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF ALABAMA 3 NORTHEASTERN DIVISION 4 5 CIVIL ACTION NO.: 6:09-CV-1748-SLB 6 7 GEORGE R. CHAPMAN, JR., 8 Plaintiff, 9 vs. 10 WALKER COUNTY, ALABAMA, et al., 11 Defendants. 12 13 DEPOSITION TESTIMONY OF 14 JOHN MARK TIREY 15 16 17 May 17, 2011 18 10:05 a.m. 19 20 COURT REPORTER: 21 MELANIE L. PETIX, CCR 22 23</p>	<p style="text-align: right;">Page 3</p> <p>1 leading questions and that counsel for 2 the parties may make objections and 3 assign grounds at the time of trial or 4 at the time said deposition is offered 5 in evidence, or prior thereto. 6 In accordance with the Federal 7 Rules of Civil Procedure of the United 8 States District Court, I, Melanie L. 9 Petix, Certified Shorthand Reporter and 10 Notary Public, am hereby delivering to 11 John D. Saxon, Esq. the original 12 transcript of the oral testimony taken 13 on May 17, 2011. 14 15 16 17 18 19 20 21 22 23</p>
<p style="text-align: right;">Page 2</p> <p>1 STIPULATIONS 2 It is stipulated and agreed 3 by and between the parties through their 4 respective counsel that the deposition 5 of JOHN MARK TIREY, may be taken before 6 Melanie L. Petix, Certified Shorthand 7 Reporter and Notary Public for the State 8 of Alabama at Large, at the Walker 9 County Jail, 2001 2nd Avenue, Jasper, 10 Alabama 35501 on May 17, 2011, 11 commencing at approximately 10:05 a.m. 12 It is further stipulated and 13 agreed that the signature to and the 14 reading of the deposition by the witness 15 is waived, the deposition to have the 16 same force and effect as if full 17 compliance had been had with all laws 18 and rules of court relating to the 19 taking of depositions. 20 It is further stipulated and 21 agreed that it shall not be necessary 22 for any objections to be made by counsel 23 to any questions, except as to form or</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES 2 3 4 FOR THE PLAINTIFF: 5 JOHN D. SAXON, Esq. 6 2119 Third Avenue North 7 Birmingham, Alabama 35203 8 9 10 FOR THE DEFENDANTS: 11 KRISTI A. DOWDY, Esq. 12 KRISTI A. DOWDY, P.C. 13 300 N. Richard Arrington, Jr. Blvd. 14 Suite 200 15 Birmingham, Alabama 35203 16 17 18 ALSO PRESENT: 19 TRENT McCLUSKY 20 21 22 23</p>

	Page 5	Page 7
1	I N D E X	
2		
3	EXAMINATION BY:	PAGE
4	MR. SAXON	7
5	MS. DOWDY	62
6		
7	FURTHER EXAMINATION BY:	
8	MR. SAXON	76
9		82
10	MS. DOWDY	80
11		
12	E X H I B I T S	
13		
14		
15	(There were no exhibits	
16	marked for identification.)	
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	Page 6	Page 8
1	I, Melanie L. Petix, Certified	
2	Shorthand Reporter and Notary Public for	
3	the State of Alabama at Large, acting as	
4	Commissioner, certify that on this date,	
5	pursuant to the Federal Rules of Civil	
6	Procedure of the United States District	
7	Court, and the foregoing stipulation of	
8	counsel, there came before me at the	
9	Walker County Jail, 2001 2nd Avenue,	
10	Jasper, Alabama 35501, commencing at	
11	approximately 10:05 a.m. on May 17,	
12	2011, JOHN MARK TIREY, witness in the	
13	above cause, for oral examination,	
14	whereupon, the following proceedings	
15	were had:	
16		
17	JOHN MARK TIREY,	
18	being duly sworn, was examined and	
19	testified as follows:	
20		
21	COURT REPORTER: Usual	
22	stipulations?	
23	MS. DOWDY: Please.	

2 (Pages 5 to 8)

FREEDOM COURT REPORTING 877-373-3660

<p style="text-align: right;">Page 9</p> <p>1        A. Manage the entire operational 2 part of the sheriff's office, which 3 includes many divisions: The jail, 4 investigations, patrol, elections. I 5 mean, it's quite a lot.</p> <p>6        Q. And in terms of the jail, does 7 Mr. McClusky report to you?</p> <p>8        A. Yes, sir, he does.</p> <p>9        Q. And how long have you been 10 sheriff? Since '95?</p> <p>11       A. Yes, sir.</p> <p>12       Q. I have some questions I ask 13 everybody, Sheriff, so bear with me. 14       Have you ever been arrested?</p> <p>15       A. No, sir.</p> <p>16       Q. Not yet, at least?</p> <p>17       A. That's correct.</p> <p>18       Q. Have you ever declared 19 bankruptcy?</p> <p>20       A. No, sir.</p> <p>21       Q. Have you ever been terminated 22 from a job?</p> <p>23       A. No, sir.</p>	<p style="text-align: right;">Page 11</p> <p>1        County?</p> <p>2        A. No, sir. I think the judge 3 that signed it was Fayette County. I 4 think I'm telling you right. That's 5 been about five years. But I'm almost 6 certain of that.</p> <p>7        Q. Were you living in Fayette 8 County at the time?</p> <p>9        A. No, sir.</p> <p>10       Q. Was she living in Fayette 11 County?</p> <p>12       A. No, sir.</p> <p>13       Q. What, if anything, did you do 14 to prepare for this deposition?</p> <p>15       A. I reviewed the files that were 16 presented to me at the end of the 17 investigation. I reviewed the documents 18 early this morning.</p> <p>19       Q. Okay. Would that be as it 20 relates to the Decatur incident or 21 terminating George Chapman? I think I 22 know what you are talking about, but I 23 need you to be a little more specific.</p>
<p style="text-align: right;">Page 10</p> <p>1        Q. Have you ever served in the 2 military?</p> <p>3        A. No, sir.</p> <p>4        Q. What is your marital status?</p> <p>5        A. Married.</p> <p>6        Q. What is your wife's name?</p> <p>7        A. Lora, L-O-R-A, Tirey.</p> <p>8        Q. How long have y'all been 9 married?</p> <p>10       A. June the 19th will be three 11 years.</p> <p>12       Q. And is that your one and only 13 marriage?</p> <p>14       A. No, sir. It's my second.</p> <p>15       Q. Who was your first?</p> <p>16       A. Tonja. T-O-N-J-A. She has 17 since remarried. Do you want her new 18 name?</p> <p>19       Q. Yeah. What's her new name?</p> <p>20       A. Strickland.</p> <p>21       Q. How long were y'all married?</p> <p>22       A. Twenty-six years.</p> <p>23       Q. Were y'all divorced in Walker</p>	<p style="text-align: right;">Page 12</p> <p>1        A. The entire situation. I 2 reviewed where I actually -- well, let 3 me say it this way: I reviewed the 4 statements, the investigative file that 5 was presented to me, and then I actually 6 reviewed a letter where I actually 7 terminated Mr. Chapman.</p> <p>8        Q. When you say investigative 9 file, you mean of the Joseph Decatur 10 incident?</p> <p>11       A. Yes, sir. I'm sorry. Yes, 12 sir.</p> <p>13       Q. And the statements that were 14 taken regarding the Decatur incident?</p> <p>15       A. I reviewed the written ones, 16 yes, sir.</p> <p>17       Q. Have you ever been deposed 18 before?</p> <p>19       A. Yes, sir.</p> <p>20       Q. Have you ever been deposed in 21 an employment discrimination case 22 against the county and/or you personally 23 involving race discrimination?</p>

<p style="text-align: right;">Page 13</p> <p>1       A. No, sir.      2       Q. Have you given a deposition in      3       any other employment cases?      4       A. Not that I recall.      5       Q. Why was George Chapman      6       terminated?      7       A. I guess the correct way to      8       start out the thing: After reviewing      9       this, I felt like he violated several      10      policies that are in place here at the      11      sheriff's office, that are put in place      12      to protect him, our employees and      13      inmates, and I felt very strongly that      14      he violated those after considering the      15      entire investigation and reviewing all      16      that.      17       Q. All right. What policies did      18      he violate?      19       A. First, it's our policy here in      20      the M-Dorm for two correctional officers      21      to be there when a door is opened, a      22      cell door. That was the first policy      23      violation.</p>	<p style="text-align: right;">Page 15</p> <p>1       problems in the regular jail areas, they      2       are brought to that area and housed.      3       Q. And the policy that two      4       officers be present when the cell door      5       is opened, where are these officers      6       supposed to be?      7       A. (No response.)      8       Q. The officer, him or herself,      9       cannot open the cell doors, so you have      10      always got somebody in the control room.      11      You are not talking about that one,      12      right?      13       A. No, sir.      14       Q. In the unit itself, where are      15      the two officers supposed to be? Do      16      they both have to be standing there at      17      the door or can --      18       A. Yes, sir.      19       Q. And in your experience, has      20      there ever been any other instance at      21      the jail where a correction officer      22      opened or had opened a cell door in      23      M-Dorm and was the only officer standing</p>
<p style="text-align: right;">Page 14</p> <p>1       I guess the second violation of      2       our policy, after the inmate was subdued      3       and not combative, he struck the inmate      4       several times, as I recall, probably, I      5       think, four after he was on the ground.      6       That is certainly in violation of our      7       use of force policy here at the jail.      8       Q. Any other policies he violated?      9       A. Not that I recall at this      10      instant, no, sir.      11       Q. Does Walker County Sheriff's      12      Department or jail have a progressive      13      discipline policy?      14       A. No, sir, I would not say that's      15      a correct statement.      16       Q. Let's talk about the two      17      policies you say Mr. Chapman violated.      18      The M-Dorm, for the record, what is the      19      M-Dorm?      20       A. That's our maximum security,      21      our segregation unit for folks who are      22      either such a security risk or have      23      acted up or out into the jail and caused</p>	<p style="text-align: right;">Page 16</p> <p>1       there?      2       A. Yes, sir.      3       Q. All right. When would that      4       happen?      5       A. I have no doubt that that has      6       happened. I can't give you an exact      7       date. It could be for an extreme      8       emergency situation, maybe an inmate      9       down, what the officer at the door      10      deemed unconscious or some emergency      11      situation.      12       Q. So there are exceptions to that      13      rule?      14       A. Yes, sir.      15       Q. Do you know any -- can you name      16      any officer in particular who has      17      participated in one of those exceptions      18      where one officer was standing at the      19      cell door when it was opened in M-Dorm      20      by him or herself?      21       A. No, sir. None just from      22      memory, no, sir.      23       Q. But you know it has happened?</p>

<p style="text-align: right;">Page 17</p> <p>1        A. I feel very strongly that it 2 has, yes, sir.</p> <p>3        Q. And I understand you have been 4 here, been sheriff about 16 years, and a 5 lot of things happen and you don't 6 necessarily walk around making notes 7 every day because you might give a 8 deposition some years later.</p> <p>9        But you say: I feel strongly 10 that it has. Can you not recall any 11 specific instance that allows you to say 12 that?</p> <p>13       A. I don't remember any particular 14 -- I mean, I'm certain that there have 15 been times when someone was sick, 16 unconscious or something that's not by 17 any stretch normal, that someone would 18 have breached that door with one person. 19 I mean, I don't recall that we have ever 20 had any person in that area of the jail 21 that have hanged themselves. Certainly, 22 that happens in jails, but I don't think 23 it did in there. But certainly that</p>	<p style="text-align: right;">Page 19</p> <p>1        is Joseph Decatur, correct? 2        A. Yes, sir.</p> <p>3        Q. You say after the inmate was 4 subdued. Now, how was the inmate 5 subdued?</p> <p>6        A. From every account that I read 7 and considered before his termination, 8 he was on the ground, he had been 9 Tasered. It's my understanding from all 10 the reports, the two probes were still 11 in the inmate, still attached to the 12 Taser, which allows the ability to begin 13 a second cycle of the Taser. And at 14 some point while he was on the ground, 15 from reading the reports, Mr. Chapman 16 struck him with a baton while he was on 17 the ground.</p> <p>18       Q. And you say Decatur, after 19 being subdued, was not combative; is 20 that correct?</p> <p>21       A. Yes, sir. That's my 22 understanding from reading those, yes, 23 sir.</p>
<p style="text-align: right;">Page 18</p> <p>1        would be a situation. If one of them 2 passed by there and observed somebody 3 hanging, they would have certainly 4 breached that door, I guess as an 5 example. But I feel certain that that 6 has -- I couldn't by no stretch of the 7 imagination tell you that has never 8 happened.</p> <p>9        Q. If, as you think, it has 10 happened, was the sole officer standing 11 at the door, who breached the door in 12 violation of policy, was that officer 13 terminated?</p> <p>14       A. No, sir, not that I am aware 15 of.</p> <p>16       Q. The second policy that you say 17 Officer Chapman violated was that after 18 the inmate was subdued and not 19 combative, he struck the inmate several 20 times while on the ground. I want to 21 walk you through that statement. All 22 right.</p> <p>23       The inmate we are talking about</p>	<p style="text-align: right;">Page 20</p> <p>1        Q. Now, are you aware that some of 2 the reports, the statements of the 3 eyewitnesses conflict on some of these 4 points you have made?</p> <p>5        A. I know of one that sticks out 6 that may not dovetail with the rest. 7 But I thought it unique that there were 8 so many, even including inmates, which 9 is not always the same as the officers, 10 but in this case, I think they were 11 pretty well, with the exception of one 12 that I recall.</p> <p>13       Q. What is the one you know of 14 which sticks out?</p> <p>15       A. I think Clifton.</p> <p>16       Q. All right. And you think 17 that's the only one that is in any way 18 at odds with the others?</p> <p>19       A. That's the only one I recall, 20 yes, sir.</p> <p>21       Q. In what way was Officer 22 Clifton's statement at odds with the 23 others?</p>

<p style="text-align: right;">Page 21</p> <p>1     A. From my memory of re-reviewing 2     that this morning, I think she may have 3     indicated that he was wiggling or 4     moving.</p> <p>5     Q. What all did you review and 6     what all input did you have in making 7     the decision to terminate George 8     Chapman? And I guess I should ask you 9     first, was that your decision?</p> <p>10    A. Ultimately, yes, sir. Totally, 11    I am the only one that can make that 12    decision here.</p> <p>13    Q. Okay.</p> <p>14    A. I mean, do you want me to -- I 15    don't guess I understand what you are 16    asking exactly, sir.</p> <p>17    Q. Okay. I want to know 18    everything that went into your process 19    of making that decision, meaning, I got 20    a report, I had a lot of statements, I 21    read them. That was it. Or I also 22    talked to some people, I talked to and 23    then name them, whoever that would be.</p>	<p style="text-align: right;">Page 23</p> <p>1     investigation or another investigation. 2     I won't say another. But to follow it 3     up more in-depth to make sure that we 4     had everything we could possibly gather. 5     And I recall speaking with 6     Sergeant Harper at some point in time. 7     And here again, I can't tell you whether 8     hers was in writing at that time or if 9     she just verbally said, look, boss, I 10    think he may have went outside the 11    policy.</p> <p>12    My position on both those, and 13    I respect them, but certainly I think I 14    indicated, well, look, I'm having 15    Sergeant Darrell Mote relook at all 16    this, do more in-depth, you know, 17    checking on this and I'm waiting on his 18    investigation.</p> <p>19    At some point in time, Sergeant 20    Darrell Mote, been with me about 15 21    years, quite thorough in his work, came 22    and presented me with a file which 23    included some of the things I had</p>
<p style="text-align: right;">Page 22</p> <p>1     I interviewed people myself. I prayed 2     to the Good Lord about it. Just tell me 3     whatever you did to make your decision 4     to terminate Officer Chapman.</p> <p>5     A. Yes, sir. As I recall, I think 6     after this incident, and I directed an 7     investigation, my jail administrator, 8     and I can't tell you when, within a day 9     or two, I think, and I don't recall 10    whether he verbally told me or put it in 11    writing, I have not seen that document 12    this morning in my review and it may 13    very well be there. I can't recall.</p> <p>14    But Mr. McClusky, Trent 15    McClusky, jail administrator, told me he 16    felt like this was a pretty serious 17    incident and his recommendation is that 18    I look towards -- you know, that he 19    didn't think it was going to work out or 20    termination may be what he recommended. 21    Something very close to that.</p> <p>22    As I recall, I had gotten 23    Sergeant Darrell Mote to actually do the</p>	<p style="text-align: right;">Page 24</p> <p>1     already seen. He did some formal 2     statements that, I think, are on CD, and 3     he and I discussed it. And after which 4     there -- within a few days, I made the 5     decision that I felt like this was 6     severe enough, the incident, this 7     incident to terminate George, 8     Mr. Chapman.</p> <p>9     Q. And that was the recommendation 10    that Mr. McClusky had given you, that 11    Chapman be terminated?</p> <p>12    A. As I recall, yes, sir.</p> <p>13    Q. And for the record, what is 14    Mr. McClusky's race?</p> <p>15    A. White male. White.</p> <p>16    Q. And Sergeant Mote's race?</p> <p>17    A. White.</p> <p>18    Q. Sergeant Harper's race?</p> <p>19    A. White female.</p> <p>20    Q. For the record, what is your 21    race?</p> <p>22    A. I'm white.</p> <p>23    Q. Did Sergeant Mote actually do a</p>

<p style="text-align: right;">Page 25</p> <p>1 report himself, a written summary of 2 what he had found and concluded? Or did 3 he just give y'all the statements that 4 he collected up?</p> <p>5 A. I have not found that report. 6 I thought he did. I have asked him if 7 he did, he does not recall from memory. 8 And I asked him to look, but I don't 9 think he has found it. But I thought he 10 did, but I could be mistaken.</p> <p>11 Q. And I say that, Sheriff, 12 because I don't think I have seen a 13 report as such. And I'm not suggesting 14 one exists. I'm just inquiring.</p> <p>15 A. I understand. But on the cuff, 16 I would probably say I thought he did, 17 but I have not found it. And it's 18 possible he did not. So I can't say 19 with any certainty that there is or 20 there isn't. I have not found it.</p> <p>21 Q. Now, that gets us to something 22 else that either can't be found or 23 didn't exist. Y'all have video cameras</p>	<p style="text-align: right;">Page 27</p> <p>1 jail when we moved here in 1998 used the 2 technology that was available. It was a 3 VHS, the big tape like everybody's VCR. 4 That system does not simultaneously 5 record every camera in this jail at once 6 and store that data. You have to select 7 which one you want, to make sure and 8 record. It's not automatic. That was 9 the technology.</p> <p>10 So it's possible that if 11 somebody punched the button in the 12 control unit and it recorded it, it 13 would be there. If they did not, it was 14 not captured. And to further answer 15 your question, that entire system went 16 down last year, I suppose, on a 17 lightning strike and we put in a whole 18 new system that is now on CD, to answer 19 your question.</p> <p>20 Q. Okay. Have you, yourself, 21 either made investigation or directed 22 anyone under you, be that Mr. McClusky 23 or anybody else, to go look for whatever</p>
<p style="text-align: right;">Page 26</p> <p>1 in the M-Dorm, TV cameras, 2 closed-circuit cameras?</p> <p>3 A. Yes, sir.</p> <p>4 Q. What kind are they? What would 5 you call them?</p> <p>6 A. Closed-circuit cameras, I 7 suppose.</p> <p>8 Q. And y'all had them at the time 9 of the Decatur incident?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And did they run continuously, 12 24 hours a day?</p> <p>13 A. The system does, yes, sir.</p> <p>14 Q. And should there be a video, 15 whether it's on tape, CD, whatever, of 16 that incident that exists at present?</p> <p>17 A. Well, there could be. There 18 could be one, but there may not be one, 19 to answer your question.</p> <p>20 Q. Okay. That gives me a world of 21 possibilities. So why might there be 22 one and why might there not be one?</p> <p>23 A. The system that was put in this</p>	<p style="text-align: right;">Page 28</p> <p>1 might exist: Tape, CD and the like -- 2 well, I guess a tape of the George 3 Chapman/Joseph Decatur incident?</p> <p>4 MS. DOWDY: They have done so 5 at my request, John. I mean, I don't 6 even know that the sheriff and I have 7 discussed that. But they have done it 8 at my request.</p> <p>9 Q. What did you find, Sheriff?</p> <p>10 A. I don't have a tape. I don't 11 know of one existing.</p> <p>12 Q. And do you know why that is? 13 And from what you have already told me, 14 there would be several possibilities. 15 One is nobody directed the VCR, if that 16 was the technology, to actually record 17 what the cameras might have been seeing 18 in that part of the M-Dorm where Chapman 19 and Decatur were; that's one 20 possibility. Another is it recorded 21 every second of it, but somehow was lost 22 or not retained when y'all changed over, 23 or it got destroyed by lightning or</p>

<p style="text-align: right;">Page 29</p> <p>1 someone put it in their pickup truck and 2 took it off and put it in the bottom of 3 Smith Lake. So there are a lot of 4 possibilities.</p> <p>5 Do you know why y'all don't 6 have one?</p> <p>7 A. No, sir. I can't answer that. 8 I don't know. I feel very strongly we 9 looked for one.</p> <p>10 Q. And you're satisfied it can't 11 be found?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Are there standing instructions 14 for the officer in the control room, 15 that when there is an altercation, a 16 fight, something that rises to a certain 17 level involving inmates with each other 18 or inmates with guards, that they are to 19 focus the cameras and hit the button and 20 start taping?</p> <p>21 A. Well, I'm certain that's the 22 way that's supposed to be done.</p> <p>23 Q. And who was in the control</p>	<p style="text-align: right;">Page 31</p> <p>1 four screens in the larger screen or he 2 popped on it and it blew it up larger, 3 right? Would you agree with that? 4 Because he writes about things he saw 5 happen.</p> <p>6 A. Well, he could physically see 7 part of it through the glass, too. So I 8 can't answer whether he saw it on camera 9 or through the glass. I don't know, 10 sir.</p> <p>11 Q. Mr. Decatur, is he physically a 12 big fellow?</p> <p>13 A. I would consider him large. I 14 mean, he's not a giant but, my opinion, 15 large.</p> <p>16 Q. How would you define large?</p> <p>17 A. Well, I would consider myself 18 probably extra large, so he's smaller 19 than I am. That's what I base that on.</p> <p>20 Q. Have you ever hit an inmate on 21 the head with a baton?</p> <p>22 A. An inmate?</p> <p>23 Q. Yes, sir.</p>
<p style="text-align: right;">Page 30</p> <p>1 room? Officer Williams?</p> <p>2 A. Should have been Jerry 3 Williams.</p> <p>4 Q. Do you know if he followed 5 those instructions?</p> <p>6 A. I do not.</p> <p>7 Q. Does someone literally hit a 8 button and is there a control lever 9 that's switched or a button that's 10 pressed that starts taping?</p> <p>11 A. If my memory serves me correct, 12 the system that we used at that time 13 had -- you could look at four views on 14 one fairly large screen. They had four 15 camera views. You had to physically 16 select which camera -- and I'm not 17 certain of this, but I think you had to 18 physically decide which one you wanted 19 to watch, make it full screen, and punch 20 something over here to make it record.</p> <p>21 Q. We know from Officer Williams' 22 statement that he observed some things. 23 So he had to -- it was either one of the</p>	<p style="text-align: right;">Page 32</p> <p>1 A. No, sir, not that I recall.</p> <p>2 Q. Have you ever hit a suspect or 3 a detainee or arrestee on the head with 4 a baton?</p> <p>5 A. Not on the top of the head, as 6 I recall.</p> <p>7 Q. Where on the head would you 8 might have hit somebody?</p> <p>9 A. I think I may have tried to go 10 on a shoulder and got a guy kind of on 11 the side of the neck. But that's not 12 the head. But that's as close, I think, 13 as I might have gotten.</p> <p>14 Q. Was it possible that George 15 Chapman may have been trying to hit 16 Mr. Decatur on the shoulder and Decatur 17 moved and got hit on the neck -- on the 18 head?</p> <p>19 A. It's possible.</p> <p>20 Q. Did you ever talk to George 21 about this incident? Did you ask him 22 what his version of events was?</p> <p>23 A. Yes, sir, we had a conversation</p>

<p style="text-align: right;">Page 33</p> <p>1 about it.</p> <p>2 Q. What did he tell you?</p> <p>3 A. Well, I think his version is</p> <p>4 that the guy was hollering, saying</p> <p>5 something. And he called and asked for</p> <p>6 the door to be popped, and when he did,</p> <p>7 the guy just came out on him. He says</p> <p>8 the guy was, you know, still trying to</p> <p>9 attack him when he struck him with he</p> <p>10 stick, if I remember correctly what he</p> <p>11 told me. And I remember asking him,</p> <p>12 well, you know, if the guy is down on</p> <p>13 the ground, I mean, how is he trying to</p> <p>14 hurt you? He said, well, he was trying</p> <p>15 to get up and come after me.</p> <p>16 Q. And George's version is borne</p> <p>17 out by more than one of the statements,</p> <p>18 isn't it?</p> <p>19 MS. DOWDY: Object to the form.</p> <p>20 A. I don't understand. Are you</p> <p>21 saying there is another statement</p> <p>22 that --</p> <p>23 Q. There are statements from a</p>	<p style="text-align: right;">Page 35</p> <p>1 certain circumstances, right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. You said that after the inmate</p> <p>4 was subdued, he still had the two probes</p> <p>5 in him from the Taser. How do you know</p> <p>6 that?</p> <p>7 A. From the statements that I</p> <p>8 reviewed and some reference to it and, I</p> <p>9 think, the nurse took them out of him.</p> <p>10 Q. Which nurse was that?</p> <p>11 Ms. Gould?</p> <p>12 A. Yes, sir.</p> <p>13 Q. There are a lot of things, I</p> <p>14 guess, that go on in jails that are</p> <p>15 pretty standard. You mentioned</p> <p>16 hangings, and that's certainly something</p> <p>17 I assume y'all don't encourage, but it</p> <p>18 happens, right?</p> <p>19 A. Yes, sir.</p> <p>20 MS. DOWDY: I object to using</p> <p>21 the words standard and hanging in the</p> <p>22 same sentence.</p> <p>23 Q. And I guess, from time to time,</p>
<p style="text-align: right;">Page 34</p> <p>1 number of people: Inmates and</p> <p>2 correction officers?</p> <p>3 A. Correct.</p> <p>4 Q. I'm asking, are you aware --</p> <p>5 because we will talk about them in a</p> <p>6 little bit. Are you aware that more</p> <p>7 than one statement bears out Officer's</p> <p>8 Chapman's version?</p> <p>9 A. The Clifton statement is the</p> <p>10 only one that I -- that comes to memory.</p> <p>11 Q. Did you ever tell George</p> <p>12 Chapman that you had hit an inmate or a</p> <p>13 detainee on the head with a baton?</p> <p>14 A. No, sir.</p> <p>15 Q. Didn't say, oh, that's not a</p> <p>16 big deal, I have done that?</p> <p>17 A. No, sir.</p> <p>18 Q. The jail's baton policy permits</p> <p>19 hitting on the head as a last resort,</p> <p>20 doesn't it?</p> <p>21 A. It's considered basically</p> <p>22 deadly force.</p> <p>23 Q. But it's permitted under</p>	<p style="text-align: right;">Page 36</p> <p>1 inmates get into fights with each other.</p> <p>2 That happens, right?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And, from time to time, inmates</p> <p>5 and correction officers, guards,</p> <p>6 whatever you want to call them, have</p> <p>7 altercations, right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Was George Chapman the only</p> <p>10 correction officer that has ever gotten</p> <p>11 into an altercation, some kind of a</p> <p>12 fight with an inmate?</p> <p>13 A. No, sir, I wouldn't think so.</p> <p>14 Q. Can you think of other</p> <p>15 instances in which officers have gotten</p> <p>16 into fights with inmates?</p> <p>17 A. Well, I can't give you a</p> <p>18 specific incident, but I certainly know</p> <p>19 it goes on.</p> <p>20 Q. And you don't terminate every</p> <p>21 correction officer that gets in a fight</p> <p>22 with an inmate, do you?</p> <p>23 A. No, sir.</p>

<p style="text-align: right;">Page 37</p> <p>1     Q. Sergeant Harper was a 2 correction officer, initially; is that 3 right? 4     A. Yes, sir. 5     Q. She was a jailer? 6     A. Yes, sir. 7     Q. And did she get promoted to 8 sergeant? 9     A. Yes, sir. 10    Q. And who promoted her? 11    A. Ultimately, I did. 12    Q. Do you know what period of time 13 she was a jailer or a correction officer 14 before she got promoted to sergeant? 15    A. No, sir, not from memory, I do 16 not. 17    Q. It was pretty quick, wasn't it? 18    MS. DOWDY: He just testified 19 he didn't remember when it was. 20    A. I don't recall. I mean, I 21 don't know. 22    Q. Do you know a woman by the name 23 of Paula Richardson?</p>	<p style="text-align: right;">Page 39</p> <p>1     A. ABL Management. 2     Q. Are you aware of an incident in 3 which an allegation was made to George 4 Chapman that Ms. Richardson, who is 5 African-American, was accused of 6 giving -- showing favoritism toward 7 African-American inmates, and some white 8 workers, co-workers of hers at ABL were 9 being questioned about that and 10 Mr. Chapman then talked to Mr. McClusky 11 about it? Does that ring a bell? 12    A. I don't have any -- I mean, I 13 don't remember. If he mentioned 14 anything to me, I can tell you 15 unequivocally, my position, they are not 16 my employees. I can't fire them, I 17 don't hire them. I don't have anything 18 to do with them. If anything makes it 19 to me that's of any consequence, I call 20 their direct manager and say, hey, you 21 better come check on this. That's my 22 position. I don't know anything about 23 an investigation or anything, really.</p>
<p style="text-align: right;">Page 38</p> <p>1     A. No, sir. 2     Q. Do you know anything about an 3 incident involving Paula Richardson that 4 Mr. Chapman complained to Mr. McClusky 5 about? 6     A. I'm not sure of the name. 7     Without some more information, I'm not 8 sure who you are talking about. 9     Q. How would you describe your 10 arrangement with your food service here 11 at the jail? Y'all serve the inmates 12 three meals a day, correct? 13    A. Yes, sir. 14    Q. Y'all have somebody that y'all 15 use to prepare those meals and serve 16 them? 17    A. Yes, sir. The county 18 commission contracts with a food service 19 management company. They handle the 20 entire kitchen. I don't have anything 21 whatsoever to basically do with the 22 kitchen. 23    Q. What is that company?</p>	<p style="text-align: right;">Page 40</p> <p>1     Q. Well, I understand your 2 testimony that you can't hire them or 3 you can't fire them. But you have to 4 make a determination that they have a 5 security clearance to come on the 6 premises, right? 7     A. Yes, sir. 8     Q. Have you ever determined that 9 there were any employees of ABL, for 10 whatever reason, you did not want on the 11 premises? 12    A. I recall maybe one. 13    Q. Who was that? 14    A. I can't tell you a name. I 15 don't recall a name. 16    Q. Was it a male or female? 17    A. I don't recall that, either. I 18 can't answer that. I don't know. 19    Q. What was it this ABL employee 20 had done that caused you to conclude 21 y'all didn't want them on the premises, 22 done or not done? 23    A. In my best judgment, that's</p>

<p style="text-align: right;">Page 41</p> <p>1    been some time back, I recall somebody      2    that they were trying to possibly hire      3    for the kitchen. We did a background      4    check and I think maybe they had some      5    criminal stuff and I think I called them      6    and said, look, these type folks, I      7    can't have them down here with these      8    other folks that are locked up, to the      9    understanding they did not hire them.      10   And that's basically -- that's from      11   memory and it's foggy on that issue.</p> <p>12   Q. Do y'all do criminal background      13   checks on all people that ABL are      14   seeking to hire?</p> <p>15   MS. DOWDY: To work here or      16   work anywhere?</p> <p>17   MR. SAXON: To work here.</p> <p>18   A. I know we did. I'm under the      19   assumption we do. I can't say that. I      20   don't deal with that kitchen very much,      21   in all honesty.</p> <p>22   Q. Do you remember an officer by      23   the name of Sam Sherer?</p>	<p style="text-align: right;">Page 43</p> <p>1    Baton Rouge, I understand, where I could      2    have called them.</p> <p>3    Q. You called somebody in      4    headquarters and said we don't want this      5    person?</p> <p>6    A. I think, yes, sir, my best      7    judgment.</p> <p>8    Q. When an officer uses a Taser,      9    do they have to do some kind of report      10   after the fact?</p> <p>11   A. Yes, sir.</p> <p>12   Q. And do they indicate or give      13   some description of the subject's action      14   after the Taser was deployed?</p> <p>15   A. Yes, sir.</p> <p>16   Q. Do you remember seeing in      17   Officer Clifton's Taser report where she      18   answered the question this way: Brief      19   description of subject's actions after      20   Taser was deployed, and she wrote inmate      21   was on the floor, trying to get up and      22   still going to fight. Did you see that?</p> <p>23   A. I'm sure I did, if it was in a</p>
<p style="text-align: right;">Page 42</p> <p>1    A. Yes, sir.</p> <p>2    Q. Did he ever use excessive force      3    on an inmate?</p> <p>4    A. Yes, sir.</p> <p>5    Q. More than once?</p> <p>6    A. I don't recall if it was more      7    than once, but I know he did one time.</p> <p>8    Q. Who did you deal with at ABL      9    when you told them your background check      10   of somebody they were thinking of hiring      11   didn't reveal what you would have liked      12   it to reveal?</p> <p>13   A. That's been some time back.      14   It's not a recent thing that I'm -- it      15   would have either been a district      16   manager, which they are not there --      17   John Appleton is the CEO of ABL. Roshan      18   or Roshon Cody, I think, is the district      19   manager now. He at one time was the      20   on-site guy here. But this hasn't been      21   anything recent. I honestly can't tell      22   you who I probably called, but it could      23   have been -- they are headquartered in</p>	<p style="text-align: right;">Page 44</p> <p>1    report, yes, sir.</p> <p>2    Q. Officer Clifton did not,      3    however, administer a second charge from      4    the Taser, did she?</p> <p>5    A. That's my understanding, she      6    did not.</p> <p>7    Q. Now, if the probes were still      8    in, as you say, and the inmate was      9    trying to get up and still going to      10   fight, should she have administered a      11   second hit from the Taser?</p> <p>12   A. Well, that would be, I think,      13   acceptable and correct.</p> <p>14   Q. Did you talk to Officer Clifton      15   about her Taser report?</p> <p>16   A. Not that I recall. I could      17   have. I'm not sure.</p> <p>18   Q. Now, trying to get up and still      19   going to fight is different from just      20   laying on the ground, right?</p> <p>21   A. Yes, sir.</p> <p>22   Q. Did you actually read Officer      23   Clifton's statement that she wrote out,</p>

<p style="text-align: right;">Page 45</p> <p>1 not the Taser report, but just the 2 incident report? 3 A. Yes, sir. 4 Q. Okay. Were you aware that 5 Officer Clifton gave a verbal command to 6 Decatur to stop fighting and he ignored 7 that and continued to fight? 8 A. If it was in her statement, 9 I've certainly read it, yes, sir. 10 Q. Okay. Well, she said: Saw CO 11 Chapman and IM Joseph Decatur fighting. 12 CO Clifton gave a verbal command to IM 13 Decatur to stop, IM Decatur still fought 14 with CO Chapman. And then she deployed 15 the Taser because he hadn't heeded the 16 verbal command. Did you ask her about 17 that statement? 18 A. I can't recall. 19 Q. Now, she says after she 20 deployed the Taser, Decatur fell to the 21 floor and then she says IM Decatur 22 started to stand up. CO Clifton gave 23 the verbal command to IM Decatur to stay</p>	<p style="text-align: right;">Page 47</p> <p>1 given him a command to stay on the 2 floor, Decatur still tried to stand up. 3 She says Chapman then tried to restrain 4 Inmate Decatur from getting up and 5 advancing toward all officers. 6 Were you aware that, in 7 Clifton's judgment, Chapman was 8 protecting the other officers from 9 Mr. Decatur? 10 A. I read that in her statement, 11 yes, sir. 12 MR. SAXON: Off the record. 13 (Discussion off the record.) 14 Q. (BY MR. SAXON:) Sheriff, in 15 Officer Williams' report, he writes that 16 Inmate Decatur was striking CO Chapman, 17 Inmate Decatur had CO Chapman bent over 18 and was hitting him and pulling his 19 shirt up over his head. 20 Do you remember reading that 21 description in Williams' report?</p>
<p style="text-align: right;">Page 46</p> <p>1 on the floor. IM Decatur still tried to 2 stand up. 3 So she has given a second 4 command. The first one was stop 5 fighting; he ignored that; and now she 6 is giving him a verbal command to stay 7 down and he has ignored that. Did you 8 see that in her report? 9 A. Yes, sir, I did. 10 Q. Now, if an officer has given 11 two commands to an inmate that have been 12 ignored, in between the two commands has 13 Tasered him, has not chosen to Taser him 14 a second time, but told him to stay down 15 and he didn't and he's trying to get up, 16 why wouldn't that justify, under the 17 circumstances, Officer Chapman using a 18 baton on him? 19 A. If the guy was on his feet, I 20 suppose in our force continuum, that 21 falls in there, the use of a baton if 22 the guy is threatening you. 23 Q. Finally, Clifton says she has</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Yes, sir, I do. 2 Q. Now, George Chapman is not a 3 tiny, little fellow, is he? 4 A. No, sir. 5 Q. Would you call him large or 6 extra large? 7 A. Falls under extra large. 8 Q. So if Mr. Decatur has got him 9 bent over and hitting him and pulling 10 his shirt over his head, Decatur was -- 11 MS. DOWDY: Winning. I'm 12 sorry. 13 Q. -- winning, wasn't he, or being 14 aggressive? 15 A. Yes, sir. 16 Q. Who is Mary Phillips? 17 Correction officer? 18 A. Yes, sir. 19 Q. Now, Officer Phillips has a 20 report in which she says Chapman was 21 hitting Inmate Decatur with his baton. 22 CO Tiffany Clifton arrived just ahead of 23 CO Phillips, and just as CO Phillips was</p>

<p style="text-align: right;">Page 49</p> <p>1 approaching the fight, CO Clifton 2 deployed the Taser at Inmate Decatur. 3 Upon deployment, Inmate Decatur 4 immediately dropped to the floor and 5 started to holler, I quit. CO Chapman 6 left Inmate Decatur's side and went over 7 to the table in M-Dorm and put his shirt 8 on and so forth.</p> <p>9 Did you ask Officer Phillips 10 why she has a version different from 11 other people? She has a version that 12 the hitting of the baton was going on 13 during the fight and before the 14 Tasering. Did you notice that when you 15 read her statement?</p> <p>16 A. I recall from reviewing them 17 this morning, there is some discrepancy.</p> <p>18 Q. And then she has, after the 19 Tasering, that there was no more contact 20 by Chapman, that Chapman did not use the 21 baton after he was Tasered, dropping to 22 the floor and hollering, I quit. Did 23 you see that?</p>	<p style="text-align: right;">Page 51</p> <p>1 standing there who has just Tasered him 2 says. Clifton says, I gave him a 3 command, he didn't stop fighting, I 4 Tasered him, he starts to get up; I said 5 stay down, he didn't stay down, he's 6 coming up fighting. That's the officer 7 who Tasered him, who clearly was there 8 on top of things.</p> <p>9 Why wouldn't you give -- when 10 you got that statement and you've got 11 Phillips having no beating with the 12 baton after the Tasering, why doesn't 13 George Chapman get the benefit of the 14 doubt?</p> <p>15 A. Well, I can't say that he 16 didn't get the benefit of the doubt. My 17 question throughout this somewhat, too, 18 is if, in fact, Clifton says he's trying 19 to get back up, simple thing to have 20 done is pull the trigger again. That 21 could have been avoided, but she --</p> <p>22 Q. But that was Clifton's mistake?</p> <p>23 A. That's correct.</p>
<p style="text-align: right;">Page 50</p> <p>1 A. Yes, sir.</p> <p>2 Q. Did you ask her about that?</p> <p>3 A. No, sir, I did not. Or I don't 4 recall asking her.</p> <p>5 Q. Well, if you terminated George 6 Chapman, as you told me you did, for 7 hitting an inmate after he was Tasered, 8 on the ground, and you've got an officer 9 who says that's not how it happened, 10 what weight did you give to all these? 11 Did you decide who you believed and 12 didn't believe when you read these 13 statements?</p> <p>14 A. Well, I can't say that I -- I 15 read the entire -- everything that was 16 provided to me, I took the time out and 17 reviewed it and looked at it and read 18 them. And just the whole total 19 circumstance of the thing, I made a 20 decision that he went outside the policy 21 on the striking of the inmate after he 22 was down and no threat.</p> <p>23 Q. But that's not what the officer</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. You fired George Chapman 2 because Clifton didn't Taser him a 3 second time?</p> <p>4 A. No, sir, I did not.</p> <p>5 Q. Who is Correction Officer 6 Killingsworth?</p> <p>7 A. She was an employee here at the 8 jail, correctional officer.</p> <p>9 Q. In her report, she says Officer 10 Clifton Tasered Inmate Decatur and 11 Decatur slumped to the floor. And then 12 she says Chapman began to hit Inmate 13 Decatur. Inmate Decatur's arms and 14 hands were up, still attempting to 15 fight. So she says Decatur was not just 16 laying on the ground non-combative, as 17 you put it earlier.</p> <p>18 Did you ask her -- I assume you 19 read Killingsworth's report?</p> <p>20 A. Yes, sir.</p> <p>21 Q. That's another one of these 22 where he is still fighting back, right?</p> <p>23 A. Well, not necessarily. I mean,</p>

<p style="text-align: right;">Page 53</p> <p>1 I have to review each and every one of 2 them. 3 Q. Who is Ronald Grant? 4 A. Who? 5 Q. Ronald Grant. 6 A. I don't know, unless he's an 7 inmate. 8 Q. Did y'all take some statements 9 from some inmates? 10 A. Yes, sir. 11 Q. Did you read those statements, 12 too, as a part of this report? 13 A. I did, the ones that were in 14 the file, yes, sir. 15 Q. Did you read that Ronald Grant 16 says Inmate Decatur told Correctional 17 Officer Chapman, quote, to open this 18 mother fucking door and I will kick your 19 mother fucking ass, unquote? Did you 20 see that? 21 A. I read that, yes, sir. 22 Q. Decatur wasn't in a nice mood 23 that night, was he, I reckon?</p>	<p style="text-align: right;">Page 55</p> <p>1 Inmate Decatur had Correctional Officer 2 Chapman against the wall and began 3 hitting him in the head. Correction 4 Officer Chapman takes nightstick out and 5 swings at Inmate Decatur. 6 So, according to Mr. Lawson, 7 did you read in here in his statement 8 where it was self-defense and Chapman 9 pulled his baton out after Decatur was 10 hitting him in the head? Did you read 11 that part of it? 12 A. I read that statement, yes, 13 sir. 14 Q. That's not exactly the version 15 that Sergeant Harper tells, is it? 16 A. No, sir. 17 Q. If an inmate who has already 18 called an officer a fat bastard and told 19 him he was going to kick his mother 20 fucking ass starts hitting him in the 21 head, would that justify a correction 22 officer from defending himself with his 23 baton?</p>
<p style="text-align: right;">Page 54</p> <p>1 A. It doesn't sound like it. 2 Q. Is James Lawson another one of 3 your inmates? 4 A. Possibly, yes, sir. He's not 5 an employee. 6 Q. If someone lists their address 7 as M-007, is that M-Dorm? 8 A. Yes, sir. 9 Q. And Ronald Grant was M-006. Is 10 that a cell in M-Dorm? 11 A. Yes, sir. 12 Q. And then Mr. Lawson was -- 13 M-007 is his cell. Mr. Lawson says that 14 he heard Decatur call Chapman a fat 15 bastard. Do you remember reading that 16 in the statements? 17 A. Yes, sir, I do. 18 Q. Now, Mr. Lawson says Inmate 19 Decatur came out of the cell and hit 20 Correction Officer Chapman in the 21 stomach, and Decatur was pushing 22 correction officer backwards and 23 correction officer's pants fell down.</p>	<p style="text-align: right;">Page 56</p> <p>1 A. That would not prevent him 2 from -- no, sir. 3 Q. It would be okay for the 4 officer to defend himself with his 5 baton? 6 A. Yes, sir. 7 Q. You have an inmate by the name 8 of Steven Garner or did you have who was 9 in cell 16 of M-Dorm? 10 A. He's been in jail here. 11 Q. Did you read in Mr. Garner's 12 statement that Decatur and Chapman were 13 fighting in front of the phones, Chapman 14 pushed inmate off of him and hit him in 15 his shoulder with his stick; at this 16 time, Sergeant Harper came in, and then 17 says Chapman was Tasered? Did you read 18 that statement? 19 A. Yes, sir. 20 Q. Mr. Garner says Chapman hit him 21 in the shoulder with his baton, right? 22 A. That's what he states, yes, 23 sir.</p>

<p style="text-align: right;">Page 57</p> <p>1 Q. And that that was before the 2 Tasering? 3 A. Correct. 4 Q. And Mr. Garner is a white 5 inmate, correct? 6 A. Yes, sir. 7 Q. And Joseph Decatur is white, 8 right? 9 A. Yes, sir. 10 Q. Do y'all have inmates here 11 designated at the jail as trusties? 12 A. Yes, sir, we do. 13 Q. What does that mean? 14 A. They help clean and do some 15 work around the jail inside. Some are 16 allowed access to outside, trash 17 removal, cleaning in general. 18 Q. Washing cars? 19 A. Yes, sir. 20 Q. And when they are outside 21 washing cars, are they in leg irons or 22 tethered on a chain around their neck or 23 what?</p>	<p style="text-align: right;">Page 59</p> <p>1 car-washing inmates who decided to take 2 a vacation from the premises, didn't 3 you? 4 A. I recall one. 5 Q. Who was that? 6 A. I can't say his name. As I 7 recall, he took one of the chairman of 8 the county commission's car, but I can't 9 recall his name. 10 Q. And he took off and got stopped 11 by other law enforcement officers and 12 was invited to come back, right? 13 A. Yes, sir. 14 Q. You didn't terminate 15 Mr. McClusky for that, did you? 16 A. No, sir. 17 Q. Who got to explain to the 18 county commissioner where his car was? 19 A. I did. 20 Q. What did the chairman say? 21 A. Not a lot, really. He didn't 22 fuss. He was getting the car cleaned 23 up; he was trading it in.</p>
<p style="text-align: right;">Page 58</p> <p>1 A. No, sir. 2 Q. So they are kind of free to 3 come and go -- 4 A. Well, yes, sir. 5 Q. -- on the premises? 6 A. On the premises, supposed to 7 be. 8 Q. And is there somebody who makes 9 the decision what trusties can go out 10 and wash cars? 11 A. Yes, sir. 12 Q. Who does that? 13 A. I think Trent probably has the 14 final approval. Sometimes, if he has 15 any doubt or question, he will -- and 16 I'm speaking of Trent McClusky -- he 17 will ask me. I think sergeants and 18 lieutenants in the jail make 19 recommendations to him, and it's kind of 20 a joint effort where he probably 21 approves the majority, and occasionally, 22 I will. 23 Q. Y'all had a couple of</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. Did Mr. Decatur file some kind 2 of legal action based on this incident? 3 A. Yes, sir. 4 Q. Was it a lawsuit? 5 A. Yes, sir. 6 Q. In state or federal court? 7 A. I think federal, but I can't be 8 sure. 9 Q. Who represented Decatur in that 10 action? 11 A. I do not know. 12 Q. What was the outcome of that 13 lawsuit? 14 A. It's my understanding that our 15 insurance provider and their attorneys 16 who represent us settled that case. 17 Q. What did y'all pay him to go 18 away? 19 A. I don't know. 20 Q. \$10,000 sound right? 21 A. I don't have any idea. They 22 don't normally cue me in on that. 23 Q. What happened to Mr. Decatur in</p>

<p style="text-align: right;">Page 65</p> <p>1       A. He was sent to the courthouse 2 to pick one up from Court Referral, 3 which is an agency, not a part of us, 4 it's an extension of the court. It was 5 a Madison boy is about all I can 6 remember. And George was sent to pick 7 him up, and I don't think he carried any 8 handcuffs, shackles, anything, and the 9 guy just ran off.</p> <p>10     Q. Did you terminate Mr. Chapman 11 for that?</p> <p>12     A. No.</p> <p>13     Q. And a couple of days later in 14 October of 2008, did you get some kind 15 of report or were you told about a 16 report that had been made by somebody 17 over at the hospital regarding 18 Mr. Chapman?</p> <p>19     A. Yes.</p> <p>20     Q. Do you recall what that was 21 about?</p> <p>22     A. Just the gist of that. He was 23 sent by us on duty to guard an inmate</p>	<p style="text-align: right;">Page 67</p> <p>1       Q. And do you know whether that 2 investigation had been completed at the 3 time of the incident with Mr. Decatur on 4 November 2nd, 2008?</p> <p>5       A. No, ma'am, it was not.</p> <p>6       Q. And had you made the decision 7 or somebody made the decision that 8 Mr. Chapman could not go back out there 9 to the hospital until the investigation 10 was complete?</p> <p>11     A. Correct, I made that decision.</p> <p>12     Q. You fired Sam Sherer; is that 13 correct?</p> <p>14     A. As I recall, he could have 15 resigned prior to me firing him. I 16 mean, that happens sometimes. I can't 17 tell you from memory. That was even 18 further back than this.</p> <p>19     Q. Would that have been in like 20 2003, Sheriff?</p> <p>21     A. Two or three, somewhere in 22 there, yes, ma'am.</p> <p>23     Q. And Mr. Sherer was a sergeant?</p>
<p style="text-align: right;">Page 66</p> <p>1       who was admitted to Walker Baptist 2 Medical Center.</p> <p>3       Q. Was that inmate Mr. Files?</p> <p>4       A. Yes.</p> <p>5       Q. Was Mr. Files an elderly 6 gentleman?</p> <p>7       A. Yes. And in pretty poor 8 health.</p> <p>9       Q. Who made that report against 10 Mr. Chapman?</p> <p>11     A. I don't recall the exact name, 12 but it was a nurse who actually 13 contacted us about him slapping --</p> <p>14 George Chapman slapping Mr. Files, the 15 inmate, while out at the hospital.</p> <p>16     Q. And the employees over at the 17 hospital, they are not part of your 18 staff, are they?</p> <p>19     A. No, they are not. No, ma'am.</p> <p>20     Q. And was there an investigation 21 going on into that allegation of 22 excessive force over at the hospital?</p> <p>23     A. Well, yes, ma'am.</p>	<p style="text-align: right;">Page 68</p> <p>1       A. He was.</p> <p>2       Q. Is he a white male?</p> <p>3       A. He was.</p> <p>4       Q. And if he resigned, would it 5 have been because you had given him a 6 choice to resign or be fired?</p> <p>7       A. I can't tell you specifically. 8 Sometimes, once I serve notice to set up 9 a hearing or a notice of my intent to 10 start termination, I mean, if they come 11 in and quit, they do. I can't stop 12 that.</p> <p>13     Q. Right.</p> <p>14     A. But I can't tell you whether he 15 did or he didn't, but I recall I was 16 headed down that road to terminate him.</p> <p>17     Q. You were asked earlier about 18 some of the inmates' statements and a 19 couple of the -- there were several 20 inmates who gave statements --</p> <p>21     A. Yes, ma'am.</p> <p>22     Q. -- following the incident with 23 Mr. Decatur; is that right?</p>

<p style="text-align: right;">Page 69</p> <p>1 A. Yes.      2 Q. And were there also several      3 inmates who gave statements, that you've      4 reviewed, that said that Mr. Chapman      5 struck Inmate Decatur while he was still      6 down?      7 A. Yes.      8 Q. And those would have been      9 consistent with a couple of your other      10 officers, correct, Sheriff?      11 A. Correct.      12 Q. Did you review any statement,      13 that you can recall, from one of your      14 officers that indicated to you that      15 Mr. Decatur was back on his feet at the      16 time Chapman struck him?      17 A. Did I review a statement?      18 Q. That said he was back up on his      19 feet after he had been Tasered.      20 A. I don't recall that exact term.      21 I think there was maybe one that said he      22 was trying to get on his feet. I don't      23 recall exactly without actually reading</p>	<p style="text-align: right;">Page 71</p> <p>1 after that, you move up to deadly force.      2 And the policy actually says, and we      3 teach that in any of our training, that      4 blows to the head can be lethal, they      5 can be deadly.      6 Q. You testified earlier that      7 there may be occasions when an officer      8 could violate the policy against --      9 that's posted outside of M-Dorm if he is      10 alone and calls for a door to be opened;      11 is that right?      12 A. (No response.)      13 Q. For instance, if you have an      14 inmate that's in the M-Dorm, in a cell      15 in M-Dorm and he's on the ground, can      16 the officer then call for that door to      17 be opened even though he is by himself?      18 A. I'm not sure. Are you asking      19 me does it happen or would I say it's      20 okay to violate --      21 Q. That could happen, right?      22 A. It can happen, yes.      23 Q. And that would be okay to</p>
<p style="text-align: right;">Page 70</p> <p>1 it.      2 Q. Is there a difference to you      3 about being on your feet and trying to      4 get up?      5 A. Yes.      6 Q. Under your force continuum, in      7 order for you to hit an inmate, to use      8 your baton, should there be an immediate      9 threat that is capable of being carried      10 out?      11 A. Sure. But it's an escalating      12 policy. To answer your question, from      13 my memory, it starts with officers'      14 presence, just being there, verbal      15 commands, from verbal commands of, you      16 know, stop or put it down or whatever,      17 then the next one, it's, I think, OC,      18 the gas and Taser are equals. And the      19 next one above that, if they are      20 ineffective or not working, you can go      21 on up some to the baton, and the baton      22 is designed to strike nonlethal areas:      23 The arms, leg, nonvital areas. And then</p>	<p style="text-align: right;">Page 72</p> <p>1 violate the policy if that were the      2 case, correct.      3 A. It's one of those calls, I      4 mean --      5 Q. You leave that up to your      6 officer --      7 A. Certainly.      8 Q. -- to make a judgment call?      9 A. Correct.      10 Q. And if some of these inmates      11 gave statements that said Mr. Decatur      12 was taunting Mr. Chapman and telling him      13 to open the door and fight him, that      14 would not be a valid reason for him to      15 violate that policy, wouldn't it?      16 A. No. It would be all the more      17 reason to don't open it if somebody      18 tells you they are going to come out and      19 kick your butt.      20 Q. Are you aware that Mr. Chapman      21 was one of the officers who escorted      22 Mr. Decatur to M-Dorm when he had to be      23 moved over there?</p>

<p style="text-align: right;">Page 73</p> <p>1        A. I understand that or did, yes, 2 ma'am.</p> <p>3        Q. Do you know why he had to be 4 moved?</p> <p>5        A. Mr. Decatur had acted up in one 6 of the dorms and actually, I think, 7 damaged some of the county's property. 8 I don't recall if it was a sprinkler 9 head exactly or had broken something. 10 And that's pretty well our standard 11 thing. The internal sanctions is move 12 you to M-Dorm then for internal 13 sanctions for violation of institutional 14 rules.</p> <p>15       But I understand Mr. Chapman 16 was fully aware of that when it happened 17 and was actually one of the escorting 18 officers who brought him up there and 19 locked him up in M-Dorm.</p> <p>20       Q. Is it part of your job here -- 21 I mean, if you work in a jail, that an 22 inmate is going to say things to you 23 that are probably not appropriate?</p>	<p style="text-align: right;">Page 75</p> <p>1        circumstances and I am sure I haven't 2 terminated them. I can't say that I 3 would have terminated him just for 4 opening a door under some reasonable 5 circumstance.</p> <p>6        Q. Did you take into account that 7 there was already a pending 8 investigation against Mr. Chapman for 9 excessive force when you made the 10 decision to terminate him?</p> <p>11       A. Absolutely.</p> <p>12       Q. And did it play into or did it 13 factor at all into your decision to 14 terminate Mr. Chapman, in that the other 15 complaint of excessive force came from 16 an absolutely independent source?</p> <p>17       A. Certainly, it did.</p> <p>18       Q. Would you have terminated 19 Mr. Chapman if he had been of a 20 different race or nationality?</p> <p>21       A. It has nothing to do with it. 22 No.</p> <p>23       Q. Did his race kind of factor</p>
<p style="text-align: right;">Page 74</p> <p>1        A. Absolutely.</p> <p>2        Q. Are they going to curse you 3 regularly if you work in a jail?</p> <p>4        A. Frequently.</p> <p>5        Q. Is that any reason for you to 6 open a cell door to get an inmate out, 7 because they have cursed you?</p> <p>8        A. No.</p> <p>9        Q. If Mr. Chapman had followed the 10 policy and not opened the cell door in 11 M-Dorm, this whole episode could have 12 been avoided, could it not have?</p> <p>13       A. I would say so.</p> <p>14       Q. And would you have fired 15 Mr. Chapman if he had not used his 16 baton, Sheriff?</p> <p>17       A. I don't think I would have. I 18 mean, he has violated the policy. But, 19 you know, the incident of him being on 20 the ground, I mean, both those coupled 21 together, I mean, one compounded the 22 other one. I mean, I have had officers 23 who have opened the door before in</p>	<p style="text-align: right;">Page 76</p> <p>1        into this equation to make a decision to 2 terminate him at all?</p> <p>3        A. None.</p> <p>4        Q. And if we assume that 5 Mr. Chapman had had some conversation 6 with Mr. McClusky about Ms. Richardson 7 who worked for this other company down 8 here, the food service company, did that 9 play into your decision to terminate him 10 at all?</p> <p>11       A. I'm not even sure I knew 12 anything about it. And no, it played no 13 part in his termination.</p> <p>14       MS. DOWDY: Okay. That's all 15 the questions I've got.</p> <p>16       MR. SAXON: I have a few 17 follow-ups, Sheriff.</p> <p>18       THE WITNESS: Yes, sir.</p> <p>19</p> <p>20       FURTHER EXAMINATION BY MR. SAXON:</p> <p>21       Q. The incident involving 22 Mr. Files at Walker Baptist Medical 23 Center, was there a formal investigation</p>

<p style="text-align: right;">Page 77</p> <p>1 of that matter?</p> <p>2 A. I don't know if we carried on</p> <p>3 through with it after his termination.</p> <p>4 Q. And so if you didn't carry on</p> <p>5 through with it, you wouldn't know what</p> <p>6 the result of the investigation was,</p> <p>7 would you?</p> <p>8 A. Not the final one, no, sir.</p> <p>9 Q. Do you recall what investigator</p> <p>10 was looking at the Files/Walker Baptist</p> <p>11 incident?</p> <p>12 A. I don't know independently if I</p> <p>13 actually assigned an investigator or</p> <p>14 Mr. McClusky and I talked and he was</p> <p>15 trying to do some stuff to get to it.</p> <p>16 Q. Sitting here today, is it your</p> <p>17 best recollection that after George</p> <p>18 Chapman was terminated, y'all didn't</p> <p>19 pursue the investigation anymore into</p> <p>20 the Files matter?</p> <p>21 A. Correct. That's my best</p> <p>22 judgment, yes, sir.</p> <p>23 Q. And sitting here today and</p>	<p style="text-align: right;">Page 79</p> <p>1 A. Yes, sir.</p> <p>2 Q. If you had terminated George</p> <p>3 for that, you would probably have had to</p> <p>4 terminate Trent for letting the car-wash</p> <p>5 trusty drive off with the county</p> <p>6 commission chairman's car, wouldn't you?</p> <p>7 MS. DOWDY: Object to the form.</p> <p>8 A. It was my decision on both of</p> <p>9 them and I elected not to.</p> <p>10 Q. Okay. You told Ms. Dowdy that</p> <p>11 trying to get on your feet is not the</p> <p>12 same as being on your feet. But if an</p> <p>13 inmate who has already been aggressive</p> <p>14 and struck and beaten a correction</p> <p>15 officer is trying to get on his feet, if</p> <p>16 you don't take some step, he probably</p> <p>17 will get on his feet, right?</p> <p>18 MS. DOWDY: Object to the form.</p> <p>19 A. Yes, sir.</p> <p>20 Q. Ms. Dowdy asked you some</p> <p>21 questions about Ms. Richardson, the food</p> <p>22 service employee, and you said that the</p> <p>23 Richardson matter played no part in your</p>
<p style="text-align: right;">Page 78</p> <p>1 under oath, it's your best recollection</p> <p>2 you don't know whether Sam Sherer</p> <p>3 resigned or you terminated him, correct?</p> <p>4 A. Not without the file. That's</p> <p>5 been some time back. I truthfully</p> <p>6 can't.</p> <p>7 Q. So I'm correct in saying you</p> <p>8 don't recall one way or the other</p> <p>9 whether he resigned or was terminated;</p> <p>10 is that correct?</p> <p>11 A. Correct.</p> <p>12 Q. The incident Ms. Dowdy asked</p> <p>13 you about where Officer Chapman was to</p> <p>14 go pick up an inmate and he forgot to</p> <p>15 carry his cuffs and the inmate ran off,</p> <p>16 the inmate didn't steal the chairman of</p> <p>17 the county commission's car and take it</p> <p>18 with him, did he?</p> <p>19 A. No, sir.</p> <p>20 Q. And you said you didn't</p> <p>21 terminate George Chapman for that.</p> <p>22 Y'all got the inmate back, y'all</p> <p>23 apprehended him; is that correct?</p>	<p style="text-align: right;">Page 80</p> <p>1 termination of George Chapman, right?</p> <p>2 A. Correct.</p> <p>3 Q. Do you know for a fact whether</p> <p>4 the Richardson matter played any role in</p> <p>5 Mr. McClusky's recommendation to you</p> <p>6 that George Chapman be terminated?</p> <p>7 A. I have no idea.</p> <p>8 Q. Okay. Don't know one way or</p> <p>9 the other?</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. But he made that</p> <p>12 recommendation to you and you ratified</p> <p>13 it?</p> <p>14 MS. DOWDY: Object to the form.</p> <p>15 A. He and several others, and then</p> <p>16 independently, I decided. Yes, sir. To</p> <p>17 answer your question, yes, sir.</p> <p>18 MR. SAXON: Okay. That's all</p> <p>19 I've got.</p> <p>20</p> <p>21 FURTHER EXAMINATION BY MS. DOWDY:</p> <p>22 Q. Sheriff, who makes the decision</p> <p>23 to terminate employment of one of your</p>

<p style="text-align: right;">Page 81</p> <p>1 officers?</p> <p>2 A. Rests solely with the sheriff.</p> <p>3 Myself.</p> <p>4 Q. If you have some of your other</p> <p>5 staff recommending that they</p> <p>6 terminate -- recommending that you</p> <p>7 terminate, does that mean that you are</p> <p>8 going to terminate that employee?</p> <p>9 A. No, ma'am. I have elected not</p> <p>10 to terminate some folks that</p> <p>11 Mr. McClusky has recommended and other</p> <p>12 folks, too, that I have not terminated.</p> <p>13 Q. If an inmate has been Tasered</p> <p>14 and there are five officers present and</p> <p>15 the inmate is on the ground but trying</p> <p>16 to get up, does that warrant an officer</p> <p>17 striking that inmate with a baton if he</p> <p>18 is not on his feet?</p> <p>19 A. No.</p> <p>20 Q. Okay. And isn't that the case</p> <p>21 that the majority of the witnesses to</p> <p>22 this incident said had happened?</p> <p>23 A. That's correct.</p>	<p style="text-align: right;">Page 83</p> <p>1 Q. Rhonda what?</p> <p>2 A. Whisenhunt. I would have -- if</p> <p>3 you give me a few minutes, I can name</p> <p>4 you another one or two.</p> <p>5 Q. What was Rhonda Whisenhunt's</p> <p>6 position?</p> <p>7 A. Correctional officer -- I mean,</p> <p>8 jailer, I think. I'm not sure if she is</p> <p>9 full time now or part time. But I think</p> <p>10 at the time, she was part time.</p> <p>11 Q. And what had she done that, in</p> <p>12 the judgment of Mr. McClusky, warranted</p> <p>13 termination?</p> <p>14 A. This is from memory and it's</p> <p>15 not -- I think she had screwed up a</p> <p>16 bunch of stuff on booking in some folks</p> <p>17 over there, and I think he was</p> <p>18 frustrated to the point of -- he tried</p> <p>19 to correct and have her trained on some</p> <p>20 stuff about booking, if my memory is</p> <p>21 correct. And he just told me, you know,</p> <p>22 he thought that she wasn't going to work</p> <p>23 out and he recommended termination. And</p>
<p style="text-align: right;">Page 82</p> <p>1 Q. And the cell door that exists</p> <p>2 between an inmate and an officer,</p> <p>3 doesn't that act as a barrier to keep</p> <p>4 those two people apart?</p> <p>5 A. Yes.</p> <p>6 Q. And if you open that door, the</p> <p>7 barrier is removed, correct?</p> <p>8 A. Correct.</p> <p>9 Q. So Mr. Chapman removed the</p> <p>10 barrier between he and Inmate Decatur</p> <p>11 when he called for that cell door to be</p> <p>12 opened, did he not?</p> <p>13 A. Correct.</p> <p>14 MS. DOWDY: I don't have any</p> <p>15 other questions.</p> <p>16</p> <p>17 FURTHER EXAMINATION BY MR. SAXON:</p> <p>18 Q. Can you name someone who Trent</p> <p>19 McClusky recommended be terminated and</p> <p>20 you didn't terminate them?</p> <p>21 A. I think Rhonda Whisenhunt, if</p> <p>22 that's her name, I think he kind of --</p> <p>23 that would be one.</p>	<p style="text-align: right;">Page 84</p> <p>1 I looked at the thing and I did not feel</p> <p>2 that way, so I didn't terminate her.</p> <p>3 Q. When was this?</p> <p>4 A. Last two or three years, best</p> <p>5 judgment.</p> <p>6 Q. And what is Ms. Whisenhunt's</p> <p>7 race?</p> <p>8 A. She is white. I'm trying to</p> <p>9 remember. Maybe one of our evening</p> <p>10 shift supervisors, he came up and saw me</p> <p>11 and recommended, and I elected not to do</p> <p>12 any -- terminate him.</p> <p>13 Q. Do you have a name?</p> <p>14 A. Probably James Woodley.</p> <p>15 Lieutenant James Woodley.</p> <p>16 Q. He was an evening shift</p> <p>17 supervisor?</p> <p>18 A. He was an evening shift</p> <p>19 lieutenant, yes, sir.</p> <p>20 Q. What had he done in</p> <p>21 Mr. McClusky's estimation to warrant</p> <p>22 termination?</p> <p>23 A. I think he was absent quite a</p>

Page 85

1      bit from duty. Well, I mean, not absent  
2      from duty, but wasn't supervising his  
3      personnel and some things along those  
4      lines of being a good supervisor. And  
5      this is just bits and pieces from my  
6      memory. I can't a hundred percent tell  
7      you.

8      Q. How long ago was that?

9      A. Three or four years. He  
10     finally retired on his own.

11     Q. And what is Lieutenant  
12     Woodley's race?

13     A. He's white.

14     MR. SAXON: That's all I've  
15     got.

16     MS. DOWDY: I don't have  
17     anything else.

18

19     (Further Deponent Saith Not)

20

21     (Whereupon, deposition  
22     concluded at 12:15 p.m.)

23

Page 86

1                    CERTIFICATE  
2                    STATE OF ALABAMA)  
3                    JEFFERSON COUNTY)

4

5      I hereby certify that the above and  
6      foregoing deposition was taken down by  
7      me in stenotype, and the questions and  
8      answers thereto were transcribed by  
9      means of computer-aided transcription,  
10     and that the foregoing represents a true  
11     and correct transcript of the testimony  
12     given by said witness upon said hearing.

13     I further certify that I am neither  
14     of counsel, nor kin to the parties to  
15     the action, nor am I in any way  
16     interested in the result of said cause  
17     named in said caption.

18

19     /s/Melanie L. Petix  
20     MELANIE L. PETIX, CCR  
21     License Number: ACCR-412  
22     My Commission expires 9/13/12

23

<b>A</b> <b>ability</b> 7:21 19:12 <b>abl</b> 39:1,8 40:9 40:19 41:13 42:8,17 <b>absent</b> 84:23 85:1 <b>absolutely</b> 74:1 75:11,16 <b>acceptable</b> 44:13 <b>access</b> 57:16 <b>account</b> 19:6 75:6 <b>accr</b> 412 86:21 <b>accused</b> 39:5 <b>act</b> 82:3 <b>acted</b> 14:23 73:5 <b>acting</b> 6:3 <b>action</b> 1:5 43:13 60:2,10 86:15 <b>actions</b> 43:19 <b>actual</b> 62:14 <b>address</b> 54:6 <b>administer</b> 44:3 <b>administered</b> 44:10 <b>administrator</b> 22:7,15 <b>admitted</b> 66:1 <b>advancing</b> 47:5 <b>africanameri...</b> 39:5,7 <b>agency</b> 65:3 <b>aggressive</b> 48:14 79:13 <b>ago</b> 85:8 <b>agree</b> 7:13 31:3 <b>agreed</b> 2:2,13,21 <b>ahead</b> 48:22 <b>al</b> 1:10 <b>alabama</b> 1:2,10 2:8,10 4:7,15 6:3,10 8:4,6,20 86:2	<b>allegation</b> 39:3 66:21 <b>allowed</b> 57:16 <b>allows</b> 17:11 19:12 <b>altercation</b> 29:15 36:11 <b>altercations</b> 36:7 <b>answer</b> 26:19 27:14,18 29:7 31:8 40:18 70:12 80:17 <b>answered</b> 43:18 <b>answers</b> 86:8 <b>anybody</b> 27:23 61:20 <b>anymore</b> 77:19 <b>apart</b> 82:4 <b>appleton</b> 42:17 <b>apprehended</b> 78:23 <b>approaching</b> 49:1 <b>appropriate</b> 73:23 <b>approval</b> 58:14 <b>approve</b> 62:22 <b>approves</b> 58:21 <b>approximately</b> 2:11 6:11 <b>arbitration</b> 8:16 <b>area</b> 15:2 17:20 <b>areas</b> 15:1 70:22 70:23 <b>arms</b> 52:13 70:23 <b>arrangement</b> 38:10 <b>arrested</b> 9:14 <b>arrestee</b> 32:3 <b>arrington</b> 4:13 <b>arrived</b> 48:22 <b>asked</b> 25:6,8 33:5 68:17 78:12 79:20 <b>asking</b> 7:8 21:16	33:11 34:4 50:4 71:18 <b>ass</b> 53:19 55:20 <b>allows</b> 17:11 19:12 <b>altercation</b> 29:15 36:11 <b>altercations</b> 36:7 <b>answer</b> 26:19 27:14,18 29:7 31:8 40:18 70:12 80:17 <b>answered</b> 43:18 <b>answers</b> 86:8 <b>anybody</b> 27:23 61:20 <b>anymore</b> 77:19 <b>apart</b> 82:4 <b>appleton</b> 42:17 <b>apprehended</b> 78:23 <b>approaching</b> 49:1 <b>appropriate</b> 73:23 <b>approval</b> 58:14 <b>approve</b> 62:22 <b>approves</b> 58:21 <b>approximately</b> 2:11 6:11 <b>arbitration</b> 8:16 <b>area</b> 15:2 17:20 <b>areas</b> 15:1 70:22 70:23 <b>arms</b> 52:13 70:23 <b>arrangement</b> 38:10 <b>arrested</b> 9:14 <b>arrestee</b> 32:3 <b>arrington</b> 4:13 <b>arrived</b> 48:22 <b>asked</b> 25:6,8 33:5 68:17 78:12 79:20 <b>asking</b> 7:8 21:16	<b>b</b> 5:12 <b>back</b> 41:1 42:13 51:19 52:22 59:12 67:8,18 69:15,18 78:5 78:22 <b>background</b> 8:8 41:3,12 42:9 <b>backwards</b> 54:22 <b>bankruptcy</b> 9:19 <b>baptist</b> 66:1 76:22 77:10 <b>barrier</b> 82:3,7 82:10 <b>base</b> 31:19 <b>based</b> 60:2 <b>basically</b> 34:21 38:21 41:10	<b>b</b> 5:12 <b>back</b> 41:1 42:13 51:19 52:22 59:12 67:8,18 69:15,18 78:5 78:22 <b>background</b> 8:8 41:3,12 42:9 <b>backwards</b> 54:22 <b>bankruptcy</b> 9:19 <b>baptist</b> 66:1 76:22 77:10 <b>barrier</b> 82:3,7 82:10 <b>base</b> 31:19 <b>based</b> 60:2 <b>basically</b> 34:21 38:21 41:10
				<b>C</b> <b>c</b> 4:1,12 <b>call</b> 26:5 36:6 39:19 48:5 54:14 71:16 72:8 <b>called</b> 33:5 41:5 42:22 43:2,3 55:18 82:11 <b>calls</b> 71:10 72:3 <b>camera</b> 27:5 30:15,16 31:8 <b>cameras</b> 25:23 26:1,2,6 28:17 29:19 <b>cant</b> 16:6 22:8 22:13 23:7 25:18,22 29:7 29:10 31:8 36:17 39:16 40:2,3,14,18 41:7,19 42:21 45:18 50:14 51:15 59:6,8 60:7 61:18 63:2 67:16 68:7,11,14 75:2 78:6 85:6 <b>capable</b> 70:9 <b>caption</b> 86:17 <b>captured</b> 27:14 <b>car</b> 59:8,18,22 78:17 79:6 <b>carbon</b> 8:6 <b>carried</b> 65:7 70:9 77:2 <b>carry</b> 77:4 78:15 <b>cars</b> 57:18,21

58:10 63:6	24:11 28:3,18	52:2,10	<b>conclude</b> 40:20	53:16 55:1
<b>carwash</b> 79:4	32:15 34:12	<b>cliftons</b> 20:22	<b>concluded</b> 25:2	83:7
<b>carwashing</b> 59:1	36:9 38:4 39:4	43:17 44:23	85:22	<b>corrections</b> 61:8
<b>case</b> 12:21 20:10	39:10 45:11,14	47:7 51:22	<b>conflict</b> 20:3	<b>correctly</b> 33:10
60:16 72:2	46:17 47:3,7	<b>close</b> 8:11 22:21	<b>consequence</b>	<b>couldnt</b> 18:6
81:20	47:18,19 48:2	32:12	39:19	<b>counsel</b> 2:4,22
<b>cases</b> 13:3	48:20 49:5,20	<b>closedcircuit</b>	<b>consider</b> 31:13	3:1 6:8 86:14
<b>cause</b> 6:13 86:16	49:20 50:6	26:2,6	31:17	<b>county</b> 1:10 2:9
<b>caused</b> 14:23	51:13 52:1,12	<b>cody</b> 42:18	<b>considered</b> 19:7	6:9 8:20 11:1,3
40:20	53:17 54:14,20	<b>collected</b> 25:4	34:21	11:8,11 12:22
<b>ccr</b> 1:21 86:20	55:2,4,8 56:12	<b>college</b> 8:14	<b>considering</b>	14:11 38:17
<b>cd</b> 24:2 26:15	56:13,17,20	<b>combative</b> 14:3	13:14	59:8,18 78:17
27:18 28:1	61:7 63:8	18:19 19:19	<b>consistent</b> 69:9	79:5 86:3
<b>cell</b> 13:22 15:4,9	64:10,17 65:10	<b>come</b> 33:15	<b>contact</b> 49:19	<b>coutrys</b> 73:7
15:22 16:19	65:18 66:10,14	39:21 40:5	<b>contacted</b> 66:13	<b>couple</b> 58:23
54:10,13,19	67:8 69:4,16	58:3 59:12	<b>continued</b> 45:7	65:13 68:19
56:9 71:14	72:12,20 73:15	68:10 72:18	<b>continuously</b>	69:9
74:6,10 82:1	74:9,15 75:8	<b>comes</b> 34:10	26:11	<b>coupled</b> 74:20
82:11	75:14,19 76:5	<b>coming</b> 51:6	<b>continuum</b>	<b>court</b> 1:1,20
<b>center</b> 66:2	77:18 78:13,21	<b>command</b> 45:5	46:20 70:6	2:18 3:8 6:7,21
76:23	80:1,6 82:9	45:12,16,23	<b>contracts</b> 38:18	60:6 65:2,4
<b>ceo</b> 42:17	<b>chapmans</b> 34:8	46:4,6 47:1	<b>control</b> 15:10	<b>courthouse</b> 65:1
<b>certain</b> 11:6	<b>charge</b> 44:3	51:3	27:12 29:14,23	<b>coworkers</b> 39:8
17:14 18:5	<b>check</b> 39:21	<b>commands</b>	30:8 63:1	<b>criminal</b> 8:10
29:16,21 30:17	41:4 42:9	46:11,12 70:15	<b>conversation</b>	41:5,12
35:1	<b>checking</b> 23:17	70:15	32:23 76:5	<b>cue</b> 60:22
<b>certainly</b> 14:6	<b>checks</b> 41:13	<b>commencing</b>	<b>correct</b> 9:17	<b>cuff</b> 25:15
17:21,23 18:3	<b>choice</b> 68:6	2:11 6:10	13:7 14:15	<b>cuffs</b> 78:15
23:13 35:16	<b>chosen</b> 46:13	<b>commission</b>	19:1,20 30:11	<b>curse</b> 74:2
36:18 45:9	<b>circumstance</b>	38:18 79:6	34:3 38:12	<b>cursed</b> 74:7
72:7 75:17	50:19 75:5	86:22	44:13 51:23	<b>cycle</b> 19:13
<b>certainty</b> 25:19	<b>circumstances</b>	<b>commissioner</b>	57:3,5 67:11	<b>D</b>
<b>certificate</b> 86:1	35:1 46:17	6:4 59:18	67:13 69:10,11	<b>d</b> 3:11 4:5 5:1
<b>certified</b> 2:6 3:9	75:1	<b>commissions</b>	72:2,9 77:21	<b>damaged</b> 73:7
6:1	<b>civil</b> 1:5 3:7 6:5	59:8 78:17	78:3,7,10,11	<b>darrell</b> 22:23
<b>certify</b> 6:4 86:5	63:22	<b>company</b> 38:19	78:23 80:2	23:15,20
86:13	<b>claim</b> 62:8,12	38:23 76:7,8	81:23 82:7,8	<b>data</b> 27:6
<b>chain</b> 57:22	<b>clean</b> 57:14	<b>complained</b>	82:13 83:19,21	<b>date</b> 6:4 8:1 16:7
<b>chairman</b> 59:7	<b>cleaned</b> 59:22	38:4	86:11	64:23
59:20 78:16	<b>cleaning</b> 57:17	<b>complaint</b> 75:15	<b>correction</b> 15:21	<b>day</b> 17:7 22:8
<b>chairmans</b> 79:6	<b>clearance</b> 40:5	<b>complete</b> 67:10	34:2 36:5,10	26:12 38:12
<b>changed</b> 28:22	<b>clearly</b> 7:22 51:7	<b>completed</b> 67:2	36:21 37:2,13	<b>days</b> 24:4 64:6
<b>chapman</b> 1:7	<b>clifton</b> 20:15	<b>compliance</b> 2:17	48:17 52:5	65:13
7:6 11:21 12:7	34:9 44:2,14	<b>compounded</b>	54:20,22,23	<b>deadly</b> 34:22
13:5 14:17	45:5,12,22	74:21	55:3,21 79:14	71:1,5
18:17 19:15	46:23 48:22	<b>computeraided</b>	<b>correctional</b>	<b>deal</b> 34:16 41:20
21:8 22:4 24:8	49:1 51:2,18	86:9	13:20 52:8	

42:8	<b>deployment</b>	<b>district</b> 1:1,2 3:8 6:6 42:15,18	28:4 33:19 35:20 37:18	<b>employment</b>
<b>decatur</b> 11:20 12:9,14 19:1 19:18 26:9 28:3,19 31:11 32:16,16 45:6 45:11,13,13,20 45:21,23 46:1 47:2,4,9,18,19 48:8,10,21 49:2,3 52:10 52:11,13,15 53:16,22 54:14 54:19,21 55:1 55:5,9 56:12 57:7 60:1,9,23 62:7 67:3 68:23 69:5,15 72:11,22 73:5 82:10	<b>deponent</b> 85:19 <b>deposed</b> 12:17 12:20 <b>deposition</b> 1:13 2:4,14,15 3:4 11:14 13:2 17:8 85:21 86:6 <b>depositions</b> 2:19 <b>describe</b> 38:9 <b>description</b> 43:13,19 47:23 <b>designated</b> 57:11 <b>designed</b> 70:22 <b>destroyed</b> 28:23 <b>detainee</b> 32:3 34:13 <b>determination</b> 40:4 <b>determined</b> 40:8 <b>didnt</b> 22:19 25:23 34:15 37:19 40:21 42:11 46:15 50:12 51:3,5 51:16 52:2 59:2,14,21 68:15 77:4,18 78:16,20 82:20 84:2	<b>division</b> 1:3 <b>divisions</b> 9:3 <b>divorced</b> 10:23 <b>document</b> 22:11 <b>documents</b> 11:17 <b>doesnt</b> 34:20 51:12 54:1 82:3 <b>dont</b> 7:10,15 17:5,13,19,22 21:15 22:9 25:8,12 28:5 28:10,10 29:5 29:8 31:9 33:20 35:17 36:20 37:20,21 38:20 39:12,13 39:17,17,22 40:15,17,18 41:20 42:6 43:4 50:3 53:6 60:19,21,22 61:5 62:9 65:7 66:11 69:20,22 72:17 73:8 74:17 77:2,12 78:2,8 79:16 80:8 82:14 85:16	<b>dr</b> 8:16 <b>drive</b> 79:5 <b>dropped</b> 49:4 <b>dropping</b> 49:21 <b>duly</b> 6:18 <b>duties</b> 8:22,23 <b>duty</b> 65:23 85:1 85:2	<b>employment</b> 12:21 13:3 80:23 <b>encourage</b> 35:17 <b>enforcement</b> 59:11 <b>entire</b> 9:1 12:1 13:15 27:15 38:20 50:15 <b>episode</b> 74:11 <b>equals</b> 70:18 <b>equation</b> 76:1 <b>escalating</b> 70:11 <b>escaped</b> 64:17 <b>escorted</b> 72:21 <b>escorting</b> 73:17 <b>esq</b> 3:11 4:5,11 <b>estimation</b> 84:21 <b>et</b> 1:10 <b>evening</b> 84:9,16 84:18 <b>events</b> 32:22 <b>everybody</b> 9:13 <b>everybodys</b> 27:3 <b>evidence</b> 3:5 <b>exact</b> 16:6 66:11 69:20 <b>exactly</b> 21:16 55:14 69:23 73:9 <b>examination</b> 5:3 5:7 6:13 7:1 62:5 76:20 80:21 82:17 <b>examined</b> 6:18 <b>example</b> 18:5 <b>exception</b> 20:11 <b>exceptions</b> 16:12,17 <b>excessive</b> 42:2 66:22 75:9,15 <b>excuse</b> 61:13 <b>exhibits</b> 5:15 <b>exist</b> 25:23 28:1 <b>existing</b> 28:11 <b>exists</b> 25:14
<b>decatur</b> 49:6 52:13	<b>difference</b> 70:2 <b>different</b> 44:19 49:10 75:20	<b>door</b> 13:21,22 15:4,17,22 16:9,19 17:18 18:4,11,11 33:6 53:18 71:10,16 72:13 74:6,10,23 75:4 82:1,6,11	79:9 81:9 84:11	
<b>decide</b> 30:18 50:11 63:3	<b>direct</b> 39:20 <b>directed</b> 22:6 27:21 28:15	<b>doors</b> 15:9 <b>dorms</b> 73:6 <b>doubt</b> 16:5 51:14,16 58:15	<b>elections</b> 9:4 <b>eligible</b> 62:21 <b>emergency</b> 16:8 16:10	
<b>decided</b> 59:1 80:16	<b>discipline</b> 14:13 <b>discrepancy</b> 49:17	<b>dovetail</b> 20:6 <b>dowdy</b> 4:11,12 5:5,10 6:23	<b>employed</b> 8:18 8:20	
<b>decision</b> 21:7,9 21:12,19 22:3 24:5 50:20 58:9 67:6,7,11 75:10,13 76:1 76:9 79:8 80:22	<b>discrimination</b> 12:21,23 <b>discussed</b> 24:3 28:7	<b>employee</b> 40:19 52:7 54:5 63:8 63:23 64:15 79:22 81:8	<b>employees</b> 13:12 39:16 40:9 66:16	
<b>declared</b> 9:18 <b>deemed</b> 16:10 <b>defend</b> 56:4 <b>defendants</b> 1:11 4:10	<b>discussion</b> 47:14			
<b>defending</b> 55:22 <b>define</b> 31:16 <b>degree</b> 8:9 <b>delivering</b> 3:10 <b>department</b> 14:12				
<b>deployed</b> 43:14 43:20 45:14,20 49:2				

26:16 82:1	file 12:4,9 23:22	form 2:23 33:19	78:21 79:2	guess 8:20 13:7
<b>experience</b>	53:14 60:1	79:7,18 80:14	80:1,6	14:1 18:4 21:8
15:19	78:4	<b>formal</b> 24:1	<b>georges</b> 33:16	21:15 28:2
<b>expires</b> 86:22	<b>filed</b> 62:7,8,12	76:23	<b>getting</b> 47:4	35:14,23
<b>explain</b> 59:17	62:14	<b>forth</b> 49:8	59:22	<b>guy</b> 32:10 33:4,7
<b>extension</b> 65:4	<b>files</b> 11:15 66:3	<b>fought</b> 45:13	<b>giant</b> 31:14	33:8,12 42:20
<b>extra</b> 31:18 48:6	66:5,14 76:22	<b>found</b> 25:2,5,9	<b>gist</b> 65:22	46:19,22 65:9
48:7	77:10,20	25:17,20,22	<b>give</b> 16:6 17:7	
<b>extreme</b> 16:7	<b>final</b> 58:14 77:8	29:11	25:3 36:17	<b>H</b>
<b>eyewitnesses</b>	<b>finally</b> 46:23	<b>four</b> 8:10 14:5	43:12 50:10	<b>h</b> 5:12
20:3	85:10	30:13,14 31:1	51:9 83:3	<b>hadnt</b> 45:15
	<b>find</b> 28:9	85:9	<b>given</b> 13:2 24:10	<b>handcuffs</b> 65:8
<b>F</b>	<b>finish</b> 8:11	<b>fouryear</b> 8:9	46:3,10 47:1	<b>handle</b> 38:19
<b>fact</b> 43:10 51:18	<b>fire</b> 39:16 40:3	<b>free</b> 58:2	68:5 86:12	<b>hands</b> 52:14
80:3	<b>-fired</b> 52:1 67:12	<b>frequently</b> 74:4	<b>gives</b> 26:20	<b>hanged</b> 17:21
<b>factor</b> 75:13,23	68:6 74:14	<b>front</b> 56:13	<b>giving</b> 39:6 46:6	<b>hanging</b> 18:3
<b>fair</b> 7:17	<b>firing</b> 67:15	<b>frustrated</b> 83:18	<b>glad</b> 7:12	35:21
<b>fairly</b> 30:14	<b>first</b> 10:15 13:19	<b> fucking</b> 53:18	<b>glass</b> 31:7,9	<b>hangings</b> 35:16
<b>falls</b> 46:21 48:7	13:22 21:9	53:19 55:20	<b>go</b> 27:23 32:9	<b>happen</b> 16:4
<b>far</b> 62:22	46:4	<b>full</b> 2:16 30:19	35:14 58:3,9	17:5 31:5
<b>fat</b> 54:14 55:18	<b>five</b> 11:5 81:14	63:15,23 83:9	60:17 63:2	71:19,21,22
<b>favoritism</b> 39:6	<b>floor</b> 43:21	<b>fulltime</b> 63:20	67:8 70:20	<b>happened</b> 16:6
<b>fayette</b> 11:3,7,10	45:21 46:1	64:15	78:14	16:23 18:8,10
<b>federal</b> 3:6 6:5	47:2 49:4,22	<b>fully</b> 73:16	<b>goes</b> 36:19	50:9 60:23
60:6,7	52:11	<b>further</b> 2:12,20	<b>going</b> 7:8 22:19	62:10 64:23
<b>feel</b> 17:1,9 18:5	<b>focus</b> 29:19	5:7 27:14	43:22 44:9,19	73:16 81:22
29:8 84:1	<b>foggy</b> 41:11	67:18 76:20	49:12 55:19	<b>happens</b> 17:22
<b>feet</b> 46:19 69:15	<b>folks</b> 14:21 41:6	80:21 82:17	66:21 72:18	35:18 36:2
69:19,22 70:3	41:8 81:10,12	85:19 86:13	73:22 74:2	67:16
79:11,12,15,17	83:16	<b>fuss</b> 59:22	81:8 83:22	<b>harper</b> 23:6
81:18	<b>follow</b> 23:2		<b>good</b> 22:2 85:4	37:1 55:15
<b>fell</b> 45:20 54:23	<b>followed</b> 30:4		<b>gotten</b> 22:22	56:16
<b>fellow</b> 31:12	74:9	<b>garner</b> 56:8,20	32:13 36:10,15	<b>harpers</b> 24:18
48:3	<b>following</b> 6:14	57:4	<b>ould</b> 35:11	<b>hasnt</b> 42:20
<b>felt</b> 13:9,13	68:22	<b>garners</b> 56:11	<b>grant</b> 53:3,5,15	<b>haven't</b> 75:1
22:16 24:5	<b>follows</b> 6:19	<b>gas</b> 70:18	54:9	<b>head</b> 31:21 32:3
<b>female</b> 24:19	<b>followups</b> 76:17	<b>gather</b> 23:4	32:5,7,12,18	32:5,7,12,18
40:16	<b>food</b> 38:10,18	<b>general</b> 57:17	34:13,19 47:21	34:13,19 47:21
<b>fight</b> 29:16	76:8 79:21	<b>gentleman</b> 66:6	48:10 55:3,10	48:10 55:3,10
36:12,21 43:22	<b>force</b> 2:16 14:7	<b>george</b> 1:7 11:21	55:21 71:4	55:21 71:4
44:10,19 45:7	34:22 42:2	13:5 21:7 24:7	73:9	73:9
49:1,13 52:15	46:20 66:22	28:2 32:14,20	<b>headed</b> 68:16	<b>headquartered</b>
72:13	70:6 71:1 75:9	34:11 36:9	42:23	42:23
<b>fighting</b> 45:6,11	75:15	39:3 48:2 50:5	<b>headquarters</b>	43:4
46:5 51:3,6	<b>foregoing</b> 6:7	51:13 52:1	43:4	43:4
52:22 56:13	86:6,10	61:7 65:6	<b>guards</b> 29:18	health 66:8
<b>fights</b> 36:1,16	<b>forgot</b> 78:14	66:14 77:17	36:5	

<b>heard</b> 54:14	<b>im</b> 7:8 11:4,5	<b>63:10</b>	<b>73:12</b>	<b>jefferson</b> 86:3
<b>hearing</b> 68:9	12:11 17:14	<b>inmate</b> 14:2,3	<b>interviewed</b>	<b>jerry</b> 30:2
86:12	23:14,17 24:22	16:8 18:18,19	22:1	<b>job</b> 9:22 73:20
<b>heeded</b> 45:15	25:13,14 29:21	18:23 19:3,4	<b>investigation</b>	<b>john</b> 1:14 2:5
<b>help</b> 57:14	30:16 34:4	19:11 31:20,22	11:17 13:15	3:11 4:5 6:12
<b>hes</b> 31:14,18	38:6,7 41:18	34:12 35:3	22:7 23:1,1,18	6:17 7:4,5 28:5
46:15 51:5,18	42:14 43:23	36:12,22 42:3	27:21 39:23	42:17
53:6 54:4	44:17 45:11,12	43:20 44:8	66:20 67:2,9	<b>joint</b> 58:20
56:10 71:15	45:13,21,23	46:11 47:4,18	75:8 76:23	<b>joseph</b> 12:9 19:1
85:13	46:1 48:11	47:19 48:21	77:6,19	28:3 45:11
<b>hey</b> 39:20	58:16 61:5	49:2,3,6 50:7	<b>investigations</b>	57:7
<b>hill</b> 8:6	63:12 71:18	50:21 52:10,12	9:4	<b>jr</b> 1:7 4:13
<b>hire</b> 39:17 40:2	76:11 78:7	52:13 53:7,16	<b>investigative</b>	<b>judge</b> 11:2
41:2,9,14	83:8 84:8	54:18 55:1,5	12:4,8	<b>judgment</b> 40:23
<b>hired</b> 63:8,10,15	<b>imagination</b>	55:17 56:7,14	77:9,13	43:7 47:7 72:8
63:23 64:14	18:7	57:5 61:9,14	<b>invited</b> 59:12	77:22 83:12
<b>hiring</b> 42:10	<b>immediate</b> 70:8	62:17 64:17	<b>involving</b> 12:23	84:5
<b>hit</b> 29:19 30:7	<b>immediately</b>	65:23 66:3,15	29:17 38:3	<b>june</b> 10:10
31:20 32:2,8	49:4	69:5 70:7	76:21	<b>justice</b> 8:10
32:15,17 34:12	<b>impair</b> 7:21	71:14 73:22	<b>iron</b> s 57:21	<b>justify</b> 46:16
44:11 52:12	<b>incident</b> 11:20	74:6 78:14,15	55:21	55:21
54:19 56:14,20	12:10,14 22:6	78:16,22 79:13	<b>K</b>	
70:7	22:17 24:6,7	81:13,15,17	<b>keep</b> 82:3	
<b>hitting</b> 34:19	26:9,16 28:3	82:2,10	<b>kick</b> 53:18 55:19	
47:20 48:9,21	32:21 36:18	<b>inmates</b> 13:13	72:19	
49:12 50:7	38:3 39:2 45:2	20:8 29:17,18	<b>killingsworth</b>	
55:3,10,20	60:2 64:16	34:1 36:1,4,16	52:6	
<b>holler</b> 49:5	67:3 68:22	38:11 39:7	<b>killingsworths</b>	
<b>hollering</b> 33:4	74:19 76:21	53:9 54:3	52:19	
49:22	77:11 78:12	57:10 59:1	<b>kin</b> 86:14	
<b>honestly</b> 42:21	81:22	62:23 68:18,20	<b>kind</b> 26:4 32:10	
<b>honesty</b> 41:21	<b>included</b> 23:23	69:3 72:10	36:11 43:9	
<b>hospital</b> 65:17	<b>includes</b> 9:3	<b>input</b> 21:6	58:2,19 60:1	
66:15,17,22	<b>including</b> 20:8	<b>inquiring</b> 25:14	65:14 75:23	
67:9	<b>independent</b>	56:10 57:11,15	82:22	
<b>hours</b> 26:12	75:16	<b>instance</b> 15:20	<b>kitchen</b> 38:20,22	
<b>housed</b> 15:2	<b>independently</b>	58:18 61:3	41:3,20	
<b>hundred</b> 85:6	61:19 63:9,18	62:18 73:21	<b>knew</b> 76:11	
<b>hurt</b> 33:14	77:12 80:16	74:3	<b>know</b> 7:6 11:22	
	<b>indepth</b> 23:3,16	<b>instant</b> 14:10	16:15,23 20:5	
<b>I</b>	<b>indicate</b> 43:12	<b>institutional</b>	20:13 21:17	
<b>idea</b> 60:21 80:7	23:14 69:14	73:13	22:18 23:16	
<b>identification</b>	29:13 30:5	<b>instructions</b>	28:6,11,12	
5:16	<b>ineffective</b> 70:20	84:14,15	29:5,8 30:4,21	
<b>ignored</b> 45:6	<b>information</b>	<b>intent</b> 68:9	31:9 33:8,12	
46:5,7,12	38:7	<b>interested</b> 86:16	35:5 36:18	
<b>illness</b> 7:20	<b>initially</b> 37:2	<b>internal</b> 73:11		

37:12,21,22	<b>liked</b> 42:11	42:16,19	3:8 6:1 86:19	52:23
38:2 39:22	<b>likewise</b> 7:15	<b>marital</b> 10:4	86:20	<b>necessary</b> 2:21
40:18 41:18	<b>lines</b> 85:4	<b>mark</b> 1:14 2:5	<b>memory</b> 16:22	<b>neck</b> 32:11,17
42:7 53:6	<b>lists</b> 54:6	6:12,17 7:4	21:1 25:7	57:22
60:11,19 61:4	<b>literally</b> 30:7	<b>marked</b> 5:16	30:11 34:10	<b>need</b> 11:23
62:6,9,21 67:1	<b>little</b> 11:23 34:6	<b>marriage</b> 10:13	37:15 41:11	<b>neither</b> 86:13
70:16 73:3	48:3	<b>married</b> 10:5,9	61:12,16 67:17	<b>never</b> 8:11 18:7
74:19 77:2,5	<b>living</b> 11:7,10	10:21	70:13 83:14,20	62:14
77:12 78:2	<b>locked</b> 41:8	<b>mary</b> 48:16	85:6	<b>new</b> 10:17,19
80:3,8 83:21	73:19	<b>matter</b> 77:1,20	<b>mentioned</b>	27:18
<b>kristi</b> 4:11,12	<b>long</b> 9:9 10:8,21	79:23 80:4	35:15 39:13	<b>nice</b> 53:22
<b>L</b>	85:8	<b>maximum</b> 14:20	<b>merritt</b> 8:16	<b>night</b> 53:23
11:21 2:1,6 3:8	<b>look</b> 22:18 23:9	<b>mcclusky</b> 4:19	<b>military</b> 10:2	<b>nightstick</b> 55:4
6:1 86:19,20	23:14 25:8	9:7 22:14,15	<b>minutes</b> 83:3	<b>noncombative</b>
<b>lake</b> 29:3	27:23 30:13	24:10 27:22	<b>mistake</b> 51:22	52:16
<b>large</b> 2:8 6:3	41:6	38:4 39:10	<b>mistaken</b> 25:10	<b>nonlethal</b> 70:22
30:14 31:13,15	<b>looked</b> 29:9	58:16 59:15	<b>months</b> 64:5,7	<b>nonvital</b> 70:23
31:16,18 48:5	50:17 84:1	76:6 77:14	<b>mood</b> 53:22	<b>normal</b> 17:17
48:6,7	<b>looking</b> 77:10	81:11 82:19	<b>morning</b> 11:18	<b>normally</b> 60:22
<b>larger</b> 31:1,2	<b>lora</b> 10:7,7	83:12	21:2 22:12	<b>north</b> 4:6
<b>law</b> 59:11	<b>lord</b> 22:2	<b>mccluskys</b> 24:14	49:17	<b>northeastern</b>
<b>laws</b> 2:17	<b>lost</b> 28:21	80:5 84:21	<b>mote</b> 22:23	1:3
<b>lawson</b> 54:2,12	<b>lot</b> 9:5 17:5	<b>mdorm</b> 13:20	23:15,20 24:23	<b>northern</b> 1:2
54:13,18 55:6	21:20 29:3	14:18,19 15:23	<b>motes</b> 24:16	<b>notary</b> 2:7 3:10
<b>lawsuit</b> 7:7 60:4	35:13 59:21	16:19 26:1	<b>mother</b> 53:18,19	6:2
60:13 62:7,15	<b>M</b>	28:18 49:7	55:19	<b>notes</b> 17:6
<b>laying</b> 44:20	<b>m</b> 1:18 2:11 6:11	54:7,10 56:9	<b>move</b> 71:1 73:11	<b>notice</b> 49:14
52:16	85:22	71:9,14,15	<b>moved</b> 27:1	68:8,9
<b>leading</b> 3:1	<b>m006</b> 54:9	72:22 73:12,19	32:17 72:23	<b>november</b> 67:4
<b>leave</b> 72:5	<b>m007</b> 54:7,13	74:11	73:4	<b>number</b> 34:1
<b>left</b> 49:6 61:3	<b>maam</b> 63:4,12	<b>meals</b> 38:12,15	<b>moving</b> 21:4	86:21
<b>leg</b> 57:21 70:23	64:2,13,19,22	<b>mean</b> 9:5 12:9	<b>N</b>	<b>nurse</b> 35:9,10
<b>legal</b> 60:2	66:19,23 67:5	17:14,19 21:14	<b>n</b> 2:1 4:1,13 5:1	66:12
<b>lengthy</b> 63:19	67:22 68:21	28:5 31:14	<b>name</b> 7:2,5 10:6	<b>O</b>
<b>lethal</b> 71:4	73:2 81:9	33:13 37:20	10:18,19 16:15	<b>o</b> 2:1
<b>letter</b> 12:6	<b>madison</b> 65:5	39:12 52:23	21:23 37:22	<b>oath</b> 78:1
<b>letting</b> 79:4	<b>majority</b> 58:21	57:13 62:20	38:6 40:14,15	<b>object</b> 33:19
<b>level</b> 29:17	81:21	67:16 68:10	41:23 56:7	35:20 79:7,18
<b>lever</b> 30:8	<b>making</b> 17:6	72:4 73:21	59:6,9 66:11	80:14
<b>license</b> 86:21	21:6,19	74:18,20,21,22	82:18,22 83:3	<b>objections</b> 2:22
<b>lieutenant</b> 84:15	<b>male</b> 24:15	81:7 83:7 85:1	84:13	3:2
84:19 85:11	40:16 68:2	<b>meaning</b> 21:19	<b>named</b> 86:17	<b>observed</b> 18:2
<b>lieutenants</b>	<b>manage</b> 9:1	<b>means</b> 86:9	<b>nationality</b>	30:22
58:18	<b>management</b>	<b>medical</b> 66:2	75:20	<b>oc</b> 70:17
<b>lightning</b> 27:17	38:19 39:1	76:22	<b>nature</b> 62:23	<b>occasionally</b>
28:23	<b>manager</b> 39:20	<b>medication</b> 7:20	58:21	
		<b>melanie</b> 1:21 2:6		

<b>occasions</b> 71:7	<b>open</b> 15:9 53:17	49:11 82:4	33:6	6:14
<b>october</b> 64:16	72:13,17 74:6	<b>percent</b> 85:6	<b>position</b> 23:12	<b>process</b> 21:18
65:14	82:6	<b>period</b> 37:12	39:15,22 83:6	<b>progressive</b>
<b>odds</b> 20:18,22	<b>opened</b> 13:21	63:20 64:1,4,8	<b>possibilities</b>	14:12
<b>offered</b> 3:4	15:5,22,22	64:12	26:21 28:14	<b>promoted</b> 37:7
<b>office</b> 9:2 13:11	16:19 71:10,17	<b>permits</b> 34:18	29:4	37:10,14
<b>officer</b> 15:8,21	74:10,23 82:12	<b>permitted</b> 34:23	<b>possibility</b> 28:20	<b>property</b> 73:7
15:23 16:9,16	<b>opening</b> 63:21	<b>person</b> 17:18,20	<b>possible</b> 25:18	<b>protect</b> 13:12
16:18 18:10,12	75:4	43:5 62:21	27:10 32:14,19	<b>protecting</b> 47:8
18:17 20:21	<b>operational</b> 9:1	<b>personally</b>	62:16	<b>provided</b> 50:16
22:4 29:14	<b>opinion</b> 31:14	12:22	<b>possibly</b> 23:4	<b>provider</b> 60:15
30:1,21 36:10	<b>oral</b> 3:12 6:13	<b>personnel</b> 85:3	41:2 54:4	<b>public</b> 2:7 3:10
36:21 37:2,13	<b>order</b> 70:7	<b>petix</b> 1:21 2:6	62:13	6:2
41:22 43:8,17	<b>original</b> 3:11	3:9 6:1 86:19	<b>posted</b> 71:9	<b>pull</b> 51:20
44:2,14,22	<b>outcome</b> 60:12	86:20	<b>prayed</b> 22:1	<b>pulled</b> 55:9
45:5 46:10,17	<b>outside</b> 23:10	<b>phillips</b> 48:16,19	<b>premises</b> 40:6	<b>pulling</b> 47:20
47:17 48:17,19	50:20 57:16,20	48:23,23 49:9	40:11,21 58:5	48:9
49:9 50:8,23	71:9	51:11	58:6 59:2	<b>punch</b> 30:19
51:6 52:5,8,9	<b>P</b>	<b>phones</b> 56:13	<b>prepare</b> 11:14	<b>punched</b> 27:11
53:17 54:20,22	<b>p</b> 2:1 4:1,1,12	<b>physically</b> 30:15	38:15	<b>pursuant</b> 6:5
55:1,4,18,22	85:22	30:18 31:6,11	<b>presence</b> 70:14	<b>pursue</b> 77:19
56:4 61:8 71:7	<b>page</b> 5:3	<b>pick</b> 64:18 65:2	<b>present</b> 4:18	<b>pushed</b> 56:14
71:16 72:6	<b>pants</b> 54:23	65:6 78:14	15:4 26:16	<b>pushing</b> 54:21
78:13 79:15	<b>part</b> 9:2 28:18	<b>pickup</b> 29:1	81:14	<b>put</b> 13:11 22:10
81:16 82:2	31:7 53:12	<b>pieces</b> 85:5	26:23 27:17	26:23 27:17
83:7	55:11 63:20	<b>place</b> 8:3 13:10	29:1,2 49:7	29:1,2 49:7
<b>officers</b> 13:20	65:3 66:17	13:11	52:17 70:16	52:17 70:16
15:4,5,15 20:9	73:20 76:13	<b>plaintiff</b> 1:8 4:4	<b>Q</b>	<b>question</b> 7:10,17
34:2,7 36:5,15	79:23 83:9,10	<b>play</b> 75:12 76:9	<b>pressed</b> 30:10	26:19 27:15,19
47:5,8 54:23	<b>participated</b>	<b>played</b> 76:12	<b>pretty</b> 20:11	43:18 51:17
59:11 69:10,14	16:17	79:23 80:4	22:16 35:15	58:15 62:2
70:13 72:21	<b>particular</b> 16:16	<b>please</b> 6:23 7:3	37:17 63:19	70:12 80:17
73:18 74:22	17:13	<b>point</b> 19:14 23:6	<b>prevent</b> 56:1	<b>questioned</b> 39:9
81:1,14	<b>particularly</b>	23:19 63:15	<b>prior</b> 3:5 67:15	<b>questions</b> 2:23
<b>oh</b> 34:15	61:20	83:18	25:16 31:18	3:1 7:9 9:12
<b>okay</b> 11:19	<b>parties</b> 2:3 3:2	<b>points</b> 20:4	42:22 58:13,20	76:15 79:21
21:13,17 26:20	86:14	<b>policies</b> 13:10,17	73:23 79:3,16	82:15 86:7
27:20 45:4,10	<b>parttime</b> 63:11	14:8,17	<b>probationary</b>	<b>quick</b> 37:17
56:3 71:20,23	<b>passed</b> 18:2	14:2,7,13 15:3	64:1,3,8,12	<b>quit</b> 49:5,22
76:14 79:10	<b>patrol</b> 9:4	18:12,16 23:11	35:4 44:7	68:11
80:8,11,18	<b> paula</b> 37:23 38:3	34:18 50:20	<b>probes</b> 19:10	<b>quite</b> 9:5 23:21
81:20	<b>pay</b> 60:17	70:12 71:2,8	35:4 44:7	84:23
<b>once</b> 27:5 42:5,7	<b>pending</b> 75:7	72:1,15 74:10	<b>problems</b> 15:1	<b>quote</b> 53:17
68:8	<b>people</b> 8:21	74:18	6:6	<b>R</b>
<b>ones</b> 12:15 53:13	21:22 22:1	<b>poor</b> 66:7	<b>proceedings</b>	
<b>onsite</b> 42:20	34:1 41:13	<b>popped</b> 31:2		
<b>ooo</b> 5:18				

<b>r</b> 1:7 4:1	<b>recommendat...</b>	20:2	31:3 35:1,18	47:3 48:20
<b>race</b> 12:23 24:14	58:19	<b>represent</b> 7:6	36:2,7 37:3	50:9 51:2,2,18
24:16,18,21	<b>recommended</b>	60:16	40:6 44:20	52:9,12,15
75:20,23 84:7	22:20 81:11	<b>represented</b>	52:22 56:21	53:16 54:13,18
85:12	82:19 83:23	60:9	57:8 59:12	56:17,20 71:2
<b>ran</b> 65:9 78:15	84:11	<b>represents</b>	60:20 68:13,23	<b>screen</b> 30:14,19
<b>ratified</b> 80:12	<b>recommending</b>	86:10	71:11,21 79:17	31:1
<b>read</b> 19:6 21:21	81:5,6	<b>request</b> 28:5,8	80:1	<b>screens</b> 31:1
44:22 45:9	<b>record</b> 7:2 14:18	<b>rereviewing</b>	<b>ring</b> 39:11	<b>screwed</b> 83:15
47:10 49:15	24:13,20 27:5	21:1	<b>rises</b> 29:16	<b>second</b> 10:14
50:12,15,17	27:8 28:16	<b>residents</b> 61:2	<b>risk</b> 14:22	14:1 18:16
52:19 53:11,15	30:20 47:12,14	<b>resign</b> 68:6	<b>road</b> 68:16	19:13 28:21
53:21 55:7,10	<b>recorded</b> 27:12	<b>resigned</b> 67:15	<b>role</b> 80:4	44:3,11 46:3
55:12 56:11,17	28:20	68:4 78:3,9	<b>ronald</b> 53:3,5,15	46:14 52:3
<b>reading</b> 2:14	<b>reference</b> 35:8	<b>resort</b> 34:19	54:9	<b>security</b> 14:20
19:15,22 47:22	<b>referral</b> 65:2	<b>respect</b> 23:13	<b>room</b> 15:10	14:22 40:5
54:15 69:23	<b>regarding</b> 12:14	<b>respective</b> 2:4	29:14 30:1	<b>see</b> 31:6 43:22
<b>real</b> 8:10	65:17	<b>response</b> 15:7	<b>roshan</b> 42:17	46:8 49:23
<b>really</b> 39:23	<b>regular</b> 15:1	71:12	<b>roshon</b> 42:18	53:20
59:21 62:9	<b>regularly</b> 74:3	<b>rest</b> 20:6	<b>rouge</b> 43:1	<b>seeing</b> 28:17
<b>reason</b> 40:10	<b>relates</b> 11:20	<b>restrain</b> 47:3	<b>rule</b> 16:13	43:16
72:14,17 74:5	<b>relating</b> 2:18	<b>rests</b> 81:2	<b>rules</b> 2:18 3:7	<b>seeking</b> 41:14
<b>reasonable</b> 75:4	<b>release</b> 64:18	<b>result</b> 77:6	6:5 73:14	<b>seen</b> 22:11 24:1
<b>recall</b> 13:4 14:4	<b>relook</b> 23:15	86:16	<b>run</b> 26:11	25:12
14:9 17:10,19	<b>remarried</b> 10:17	<b>retained</b> 28:22		<b>segregation</b>
20:12,19 22:5	<b>remember</b> 7:22	<b>retired</b> 85:10	S	14:21
22:9,13,22	17:13 33:10,11	<b>reveal</b> 42:11,12	<b>s</b> 2:1,1 4:1 5:12	<b>select</b> 27:6 30:16
23:5 24:12	37:19 39:13	<b>review</b> 21:5	86:19	<b>selected</b> 63:21
25:7 32:1,6	41:22 43:16	22:12 53:1	<b>saith</b> 85:19	<b>selfdefense</b> 55:8
37:20 40:12,15	47:22 54:15	69:12,17	<b>sam</b> 41:23 61:13	<b>sent</b> 61:3 65:1,6
40:17 41:1	63:7,17 65:6	<b>reviewed</b> 11:15	67:12 78:2	65:23
42:6 44:16	84:9	11:17 12:2,3,6	<b>sanctions</b> 73:11	<b>sentence</b> 35:22
45:18 49:16	<b>removal</b> 57:17	12:15 35:8	73:13	61:2
50:4 59:4,7,9	<b>removed</b> 82:7,9	50:17 69:4	<b>satisfied</b> 29:10	<b>sentenced</b> 62:22
61:5 63:14	<b>repeatedly</b>	<b>reviewing</b> 13:8	<b>saw</b> 31:4,8 45:10	<b>sergeant</b> 22:23
64:10,20 65:20	61:15	13:15 49:16	84:10	23:6,15,19
66:11 67:14	<b>rephrase</b> 7:12	<b>reward</b> 7:12	<b>saxon</b> 3:11 4:5	24:16,18,23
68:15 69:13,20	<b>report</b> 9:7 21:20	<b>rhonda</b> 82:21	5:4,8 7:1,5	37:1,8,14
69:23 73:8	25:1,5,13 43:9	83:1,5	41:17 47:12,16	55:15 56:16
77:9 78:8	43:17 44:1,15	<b>richard</b> 4:13	61:21 62:1	61:13 67:23
<b>reckon</b> 53:23	45:1,2 46:8	<b>richardson</b>	63:5 76:16,20	<b>sergeants</b> 58:17
<b>recollection</b>	47:17,23 48:20	37:23 38:3	80:18 82:17	<b>serious</b> 22:16
61:19 77:17	52:9,19 53:12	39:4 76:6	85:14	<b>serve</b> 38:11,15
78:1	65:15,16 66:9	79:21,23 80:4	<b>saying</b> 33:4,21	68:8
<b>recommendat...</b>	<b>reporter</b> 1:20	<b>right</b> 11:4 13:17	78:7	<b>served</b> 10:1
22:17 24:9	2:7 3:9 6:2,21	15:12 16:3	<b>says</b> 33:7 45:19	<b>serves</b> 30:11
80:5,12	<b>reports</b> 19:10,15	18:22 20:16	45:21 46:23	<b>service</b> 38:10,18

63:22 76:8 79:22 <b>set</b> 68:8 <b>settled</b> 60:16 <b>severe</b> 24:6 <b>shackles</b> 65:8 <b>sham</b> 61:13 <b>sherer</b> 41:23 61:13 67:12,23 78:2 <b>sheriff</b> 7:5 8:19 8:23 9:10,13 17:4 25:11 28:6,9 47:16 61:21 62:6 64:21 67:20 69:10 74:16 76:17 80:22 81:2 <b>sheriffs</b> 9:2 13:11 14:11 <b>shift</b> 84:10,16,18 <b>shirt</b> 47:21 48:10 49:7 <b>shorthand</b> 2:6 3:9 6:2 <b>shoulder</b> 32:10 32:16 56:15,21 <b>showing</b> 39:6 <b>shy</b> 8:9 <b>sick</b> 17:15 <b>side</b> 32:11 49:6 <b>signature</b> 2:13 <b>signed</b> 11:3 <b>simple</b> 51:19 <b>simultaneously</b> 27:4 <b>sir</b> 7:3,14,18,23 9:8,11,15,20 9:23 10:3,14 11:2,9,12 12:11,12,16,19 13:1 14:10,14 15:13,18 16:2 16:14,21,22 17:2 18:14 19:2,21,23	20:20 21:10,16 22:5 24:12 26:3,10,13 29:7,12 31:10 31:23 32:1,23 34:14,17 35:2 35:12,19 36:3 36:8,13,23 37:4,6,9,15 38:1,13,17 40:7 42:1,4 43:6,11,15 44:1,21 45:3,9 46:9 47:11 48:1,4,15,18 50:1,3 52:4,20 53:10,14,21 54:4,8,11,17 55:13,16 56:2 56:6,19,23 57:6,9,12,19 58:1,4,11 59:13,16 60:3 60:5 61:10 63:12 76:18 77:8,22 78:19 79:1,19 80:10 80:16,17 84:19 <b>sitting</b> 77:16,23 <b>situation</b> 12:1 16:8,11 18:1 <b>six</b> 64:5,7 <b>slapping</b> 66:13 66:14 <b>slumped</b> 52:11 <b>smaller</b> 31:18 <b>smith</b> 29:3 <b>sole</b> 18:10 <b>solely</b> 81:2 <b>somebody</b> 15:10 18:2 27:11 32:8 38:14 41:1 42:10 43:3 58:8 65:16 67:7 72:17 <b>somewhat</b> 51:17	<b>sorry</b> 12:11 48:12 63:13 <b>sound</b> 54:1 60:20 <b>source</b> 75:16 <b>speak</b> 7:22 <b>speaking</b> 23:5 58:16 <b>specific</b> 11:23 17:11 36:18 <b>specifically</b> 68:7 <b>specifics</b> 64:21 <b>sprinkler</b> 73:8 <b>staff</b> 66:18 81:5 <b>stand</b> 45:22 46:2 47:2 <b>standard</b> 35:15 35:21 73:10 <b>standing</b> 15:16 15:23 16:18 18:10 29:13 51:1 <b>start</b> 13:8 29:20 68:10 <b>started</b> 45:22 49:5 <b>starts</b> 30:10 51:4 55:20 70:13 <b>state</b> 2:7 6:3 7:2 8:13,15 60:6 86:2 <b>statement</b> 14:15 18:21 20:22 30:22 33:21 34:7,9 44:23 <b>smaller</b> 31:18 45:8,17 47:10 <b>smith</b> 29:3 49:15 51:10 <b>sole</b> 18:10 55:7,12 56:12 56:18 69:12,17 <b>statements</b> 12:4 12:13 20:2 21:20 24:2 25:3 33:17,23 35:7 50:13 53:8,11 54:16 68:18,20 69:3 72:11	<b>states</b> 1:1 3:8 6:6 56:22 <b>status</b> 10:4 <b>stay</b> 45:23 46:6 46:14 47:1 51:5,5 <b>steal</b> 78:16 <b>stenotype</b> 86:7 <b>step</b> 79:16 <b>steven</b> 56:8 <b>stick</b> 33:10 56:15 61:14 <b>sticks</b> 20:5,14 <b>stipulated</b> 2:2 2:12,20 <b>stipulation</b> 6:7 <b>stipulations</b> 6:22 <b>stomach</b> 54:21 <b>stop</b> 7:11 45:6 45:13 46:4 51:3 68:11 70:16 <b>stopped</b> 59:10 <b>store</b> 27:6 <b>stretch</b> 17:17 18:6 <b>strickland</b> 10:20 <b>strike</b> 27:17 70:22 <b>striking</b> 47:18 50:21 81:17 <b>strongly</b> 13:13 17:1,9 29:8 <b>struck</b> 14:3 18:19 19:16 33:9 61:8,14 69:5,16 79:14 <b>stuff</b> 41:5 77:15 83:16,20 <b>subdued</b> 14:2 18:18 19:4,5 19:19 35:4 <b>subjects</b> 43:13 43:19 <b>suffering</b> 7:19 <b>suggesting</b>	25:13 <b>suite</b> 4:14 <b>summary</b> 25:1 <b>supervising</b> 85:2 <b>supervisor</b> 84:17 85:4 <b>supervisors</b> 84:10 <b>suppose</b> 26:7 27:16 46:20 <b>supposed</b> 15:6 15:15 29:22 58:6 <b>sure</b> 23:3 27:7 38:6,8 43:23 44:17 60:8 61:5 70:11 71:18 75:1 76:11 83:8 <b>suspect</b> 32:2 <b>swings</b> 55:5 <b>switched</b> 30:9 <b>sworn</b> 6:18 <b>system</b> 26:13,23 27:4,15,18 30:12	<b>T</b> <b>t</b> 2:1,1 5:12 <b>table</b> 49:7 <b>take</b> 53:8 59:1 75:6 78:17 79:16 <b>taken</b> 2:5 3:12 12:14 86:6 <b>takes</b> 55:4 <b>talk</b> 14:16 32:20 34:5 44:14 <b>talked</b> 21:22,22 39:10 77:14 <b>talking</b> 11:22 15:11 18:23 38:8 <b>tape</b> 26:15 27:3 28:1,2,10 <b>taping</b> 29:20 30:10
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>taser</b> 19:12,13 35:5 43:8,14 43:17,20 44:4 44:11,15 45:1 45:15,20 46:13 49:2 52:2 70:18	<b>terminating</b> 11:21	25:9,12 30:17 32:9,12 33:3	<b>told</b> 22:10,15 28:13 33:11	67:21 82:4 83:4 84:4
	<b>termination</b> 19:7 22:20	35:9 36:13,14	42:9 46:14	<b>type</b> 41:6
	68:10 76:13	41:4,5 42:18	50:6 53:16	<b>U</b>
	77:3 80:1	43:6 44:12	55:18 65:15	<b>u</b> 2:1
	83:13,23 84:22	58:13,17 60:7	79:10 83:21	<b>uab</b> 8:13
<b>tasered</b> 19:9 46:13 49:21 50:7 51:1,4,7 52:10 56:17 69:19 81:13	<b>terms</b> 9:6 61:1	61:12,18,21	<b>tonja</b> 10:16,16	<b>ultimately</b> 21:10 37:11
<b>tasing</b> 49:14 49:19 51:12 57:2	<b>testified</b> 6:19 37:18 71:6	65:7 69:21	<b>total</b> 50:18	<b>unconscious</b> 16:10 17:16
	<b>testimony</b> 1:13 3:12 40:2	70:17 73:6	<b>totally</b> 21:10	<b>understand</b> 7:10 17:3 21:15
	86:11	74:17 82:21,22	<b>trading</b> 59:23	25:15 33:20
	<b>tethered</b> 57:22	83:8,9,15,17	<b>trained</b> 83:19	40:1 43:1 73:1
	<b>thats</b> 9:17 11:4	84:23	<b>training</b> 71:3	73:15
	14:14,20 17:16	<b>thinking</b> 42:10	<b>transcribed</b>	<b>understanding</b> 19:9,22 41:9
<b>taunting</b> 72:12	19:21 20:17,19	<b>third</b> 4:6	86:8	44:5 60:14
<b>teach</b> 71:3	28:19 29:21,22	<b>thorough</b> 23:21	<b>transcript</b> 3:12	<b>understood</b> 7:16 unequivocally
<b>technology</b> 27:2 27:9 28:16	30:9,9 31:19	<b>thought</b> 20:7	86:11	39:15
<b>tell</b> 18:7 22:2,8 23:7 33:2	32:11,12 34:15	<b>threat</b> 50:22	<b>transcription</b>	<b>unique</b> 20:7
34:11 39:14	35:16 39:19,21	70:9	86:9	<b>unit</b> 14:21 15:14
40:14 42:21	40:23 41:10,10	<b>threatening</b>	<b>trash</b> 57:16	27:12
67:17 68:7,14	42:13 44:5	46:22	<b>trent</b> 4:19 22:14	<b>united</b> 1:1 3:7 6:6
85:6	50:9,23 51:6	<b>three</b> 10:10	58:13,16 79:4	<b>unquote</b> 53:19
<b>telling</b> 11:4 72:12	51:23 52:21	38:12 67:21	82:18	<b>use</b> 14:7 38:15
<b>tells</b> 55:15 72:18	55:14 56:22	84:4 85:9	<b>trial</b> 3:3	42:2 46:21
<b>term</b> 69:20	61:16,22 62:16	<b>tiffany</b> 48:22	<b>tried</b> 32:9 46:1	49:20 70:7
<b>terminate</b> 21:7 22:4 24:7	71:9,14 73:10	<b>time</b> 3:3,4 7:9	47:2,3 83:18	<b>uses</b> 43:8
36:20 59:14	76:14 77:21	11:8 23:6,8,19	<b>trigger</b> 51:20	<b>usual</b> 6:21
65:10 68:16	78:4 80:18	26:8 30:12	<b>truck</b> 29:1	<b>V</b>
75:10,14 76:2	81:23 82:22	35:23,23 36:4	<b>true</b> 86:10	<b>vacation</b> 59:2
76:9 78:21	85:14	36:4 37:12	<b>trusties</b> 57:11	<b>valid</b> 72:14
79:4 80:23	<b>thereto</b> 3:5 86:8	41:1 42:7,13	58:9	<b>ver</b> 27:3 28:15
81:6,7,8,10	<b>thing</b> 13:8 42:14	42:19 46:14	<b>trusty</b> 79:5	<b>verbal</b> 45:5,12
82:20 84:2,12	50:19 51:19	50:16 52:3	73:8,13,14	45:16,23 46:6
<b>terminated</b> 9:21 12:7 13:6	73:11 84:1	56:16 63:15,19	41:2 43:21	70:14,15
18:13 24:11	<b>things</b> 17:5	63:20 64:1	<b>times</b> 14:4 17:15	<b>verbally</b> 22:10 23:9
50:5 61:15	23:23 30:22	67:3 69:16	18:20	<b>version</b> 32:22
64:11 75:2,3	31:4 35:13	78:5 83:9,9,10	<b>tiny</b> 48:3	33:3,16 34:8
75:18 77:18	51:8 62:23	83:10	<b>tirey</b> 1:14 2:5	49:10,11 55:14
78:3,9 79:2	73:22 85:3	83:10	6:12,17 7:4,4	<b>vhs</b> 27:3
80:6 81:12	<b>think</b> 7:22 11:2	<b>today</b> 7:7 77:16	10:7	
82:19	11:4,21 14:5	77:23	15:3,15 19:10	
	17:22 18:9		22:9 35:4	
	20:10,15,16		46:11,12 62:2	
	21:2 22:5,9,19			
	23:10,13 24:2			

<b>video</b> 25:23 26:14 <b>views</b> 30:13,15 <b>violate</b> 13:18 71:8,20 72:1 72:15 <b>violated</b> 13:9,14 14:8,17 18:17 74:18 <b>violation</b> 13:23 14:1,6 18:12 73:13 <b>vs</b> 1:9	<b>went</b> 21:18 23:10 27:15 49:6 50:20 <b>whats</b> 10:19 <b>whatsoever</b> 38:21 <b>whisenhunt</b> 82:21 83:2 <b>whisenhunts</b> 83:5 84:6 <b>white</b> 24:15,15 24:17,19,22 39:7 57:4,7 68:2 84:8 85:13 <b>wifes</b> 10:6 <b>wiggling</b> 21:3 <b>williams</b> 30:1,3 30:21 47:17,23 <b>winning</b> 48:11 48:13 <b>witness</b> 2:14 6:12 76:18 86:12 <b>witnesses</b> 81:21 <b>woman</b> 37:22 <b>wont</b> 23:2 <b>woodley</b> 84:14 84:15 <b>woodleys</b> 85:12 <b>words</b> 35:21 <b>work</b> 22:19 23:21 41:15,16 41:17 57:15 64:18 73:21 74:3 83:22 <b>worked</b> 63:18 76:7 <b>workers</b> 39:8 <b>working</b> 70:20 <b>world</b> 26:20 <b>wouldnt</b> 36:13 46:16 51:9 72:15 77:5 79:6 <b>writes</b> 31:4 47:17	<b>writing</b> 22:11 23:8 <b>written</b> 12:15 25:1 <b>wrote</b> 43:20 44:23	<b>16</b> 17:4 56:9 <b>17</b> 1:17 2:10 3:13 6:11 <b>1959</b> 8:2 <b>1998</b> 27:1 <b>19th</b> 10:10
		<b>X</b>	2
	<b>x</b> 5:1,12		<b>200</b> 4:14
			<b>2001</b> 2:9 6:9
		<b>Y</b>	<b>2003</b> 67:20
	<b>yall</b> 10:8,21,23		<b>2008</b> 64:16
	25:3,23 26:8		65:14 67:4
	28:22 29:5		<b>2011</b> 1:17 2:10
	35:17 38:11,14		3:13 6:12
	38:14 40:21		<b>2119</b> 4:6
	41:12 53:8		<b>24</b> 26:12
	57:10 58:23		<b>2nd</b> 2:9 6:9 67:4
	60:17 77:18		
	78:22,22		
	<b>yeah</b> 10:19		<b>3</b>
	<b>year</b> 27:16		<b>300</b> 4:13
	<b>years</b> 10:11,22		<b>3520</b> 3:4,7,15
	11:5 17:4,8		<b>3550</b> 1:2:10 6:10
	23:21 84:4		
	85:9		
	<b>yesterday</b> 8:15		
	<b>youre</b> 29:10		
	<b>youve</b> 50:8		
	51:10 69:3		
		<b>Z</b>	
	<b>zero</b> 63:1		
			<b>7</b>
		<b>0</b>	
	<b>000</b> 60:20		
	<b>05</b> 1:18 2:11		
	6:11		
	<b>09cv1748slb</b> 1:5		
		<b>1</b>	
	<b>10</b> 1:18 2:11		
	6:11 8:2,2		
	60:20		
	<b>12</b> 85:22 86:22		
	<b>13</b> 86:22		
	<b>15</b> 23:20 85:22		